



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

March 17, 2020

Michele Pelletier, President
PFG Northcenter
P O Box 2628
Augusta, ME 04338

Re: Information Request Pursuant to the Clean Air Act

Dear Michele Pelletier:

In January of 2020, the U.S. Environmental Protection Agency (“EPA”) provided you notice of its plans to begin an enforcement initiative to increase companies’ compliance with the “General Duty Clause” of Section 112(r)(1) of the Clean Air Act (“CAA”), 42 U.S.C. § 7412(r)(1), in certain states. See “Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems” (attached). This notice was widely shared with companies that operate ammonia refrigeration facilities, ammonia suppliers, ammonia contractors, and trade associations. This letter is part of the described initiative.

Please review this letter carefully. It contains an “Information Request” that requires you to submit certain information to EPA within **thirty (30) days** of your receipt of this letter.

INFORMATION REQUEST

EPA issues this Information Request under the authority of Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), which authorizes EPA to require a company to submit such information and conduct such reporting or auditing as EPA may reasonably require to determine compliance with the CAA and to carry out the purposes of the CAA. It requests certain information about the refrigeration system at PFG Northcenter’s facility on Dalton Road in Augusta, ME (“Facility”) in order to investigate your compliance with the General Duty Clause.

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Pursuant to the General Duty Clause, owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the Clean Air Act, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty to:

1. Identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques;

2. Design and maintain a safe facility taking such steps as are necessary to prevent releases; and
3. Minimize the consequences of accidental releases that do occur.

Guidance documents that further explain the General Duty Clause may be found at <https://www.epa.gov/enforcement/guidance-implementation-general-duty-clause-clean-air-act-cao-section-112r1-may-2000> and <https://www.epa.gov/sites/production/files/2015-02/documents/112renforcementalert.pdf>. Also, the International Institute of Ammonia Refrigeration ("IIAR") has issued industry standards and guidance that can help facilities comply with the General Duty Clause. See, e.g., The Ammonia Refrigeration Management ("ARM") Program, available through www.iiar.org.

Information obtained by EPA, including chemical inventory ("Tier II") reports⁸ submitted by PFG Northcenter, indicates that the refrigeration system uses anhydrous ammonia. Anhydrous ammonia is an extremely hazardous substance subject to the General Duty Clause.

While companies have an obligation to comply with all three duties of the General Duty Clause, this Information Request only focuses on PFG Northcenter's compliance with the first duty: the duty to identify hazards which may result from accidental releases of anhydrous ammonia from the refrigeration system. EPA sometimes calls these hazard assessments "process hazard reviews." A process hazard review that complies with the General Duty Clause will identify and evaluate the potential hazards associated with your refrigeration system. It will assess the design and operational safeguards in place to prevent ammonia releases as well as what might happen if the safeguards fail, the effect of facility siting on the hazards, and the risks and consequences of human error. A process hazard review is not the same as an equipment maintenance checklist. IIAR has a template for conducting process hazard reviews using a combined What If/Checklist methodology, although other industry-recognized hazard assessment techniques are also acceptable under the General Duty Clause.

You are required to submit the information requested in the "Information Request" and "Declaration" portions of the enclosed Attachment 1 by filling in all the blanks with the appropriate information. Fill out the form by hand, then return the completed form to the address listed at the top of Attachment 1.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully, or to adequately justify any failure to respond, **within thirty (30) days of receipt of this letter** can result in an enforcement action, including for penalties, by EPA pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. This Information Request is not subject to Office of Management and Budget review under the Paperwork Reduction Act.

You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. § 2.203(b). You should read the above-cited regulations carefully before asserting a business confidentiality claim, as certain categories of information are not properly the subject of such a claim. If no such claim

⁸ Tier II reports are submitted pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11022.

accompanies the information submitted, the information may be made available to the public by EPA without further notice to you.

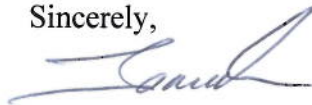
FOLLOW-UP TO INFORMATION REQUEST

EPA will review PFG Northcenter's response to the Information Request. If the response indicates that PFG Northcenter has performed a Process Hazard Review of the Refrigeration System, PFG Northcenter's involvement in this initiative will conclude.

If PFG Northcenter's response reveals a violation of the first duty of the General Duty Clause (*i.e.*, PFG Northcenter has **not** performed an analysis of the hazards of the refrigeration system), and the Facility has not experienced a significant release of ammonia in the last five years (*i.e.*, you answer "no" in response to question 4), EPA will follow-up by sending PFG Northcenter an offer to resolve this violation quickly and at a steep discount via an Expedited Settlement Agreement ("ESA"). The ESA will require PFG Northcenter to retain a third-party expert to perform a Process Hazard Review of the refrigeration system using appropriate hazard assessment techniques. The ESA will also require PFG Northcenter to meet with the local emergency responders to plan for an emergency response in the event of an ammonia release and to certify that it has filed a Tier II form with local and state emergency responders pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11022, and 40 C.F.R. Part 370.

If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell of my staff at (617) 918-1371 or odonnell.maryjane@epa.gov.

Sincerely,



James Chow, Deputy Director
Enforcement and Compliance Assurance Division

Enclosures

1. Information Request with Declaration
2. Public Notice of Enforcement Initiative
3. Small Business Information Sheet

cc: Christine Foot, Esq., EPA

ATTACHMENT 1

INFORMATION REQUEST

Instructions: Complete this form and the Declaration and mail or e-mail to:

Mary Jane O'Donnell, Chief
Waste and Chemical Compliance Section
Enforcement and Compliance Assurance Division
U. S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100 (Mail Code 05-4)
Boston, Massachusetts 02109-3912
odonnell.maryjane@epa.gov

Guidance on How to Respond. Please respond fully to each of the questions, using the spaces provided. As part of your response, please complete the enclosed Declaration (see below). Your submission must be a self-explanatory, complete response that is dated and signed by an authorized facility official.

Continuing Obligation to Provide/Correct Information. If additional information responsive to these questions becomes known or available after answering this request, including, but not limited to, specific information that may be deemed *unknown* at the time of your response, EPA hereby requests, pursuant to Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), that you supplement your response to EPA within ten (10) days of discovering such information. Please be advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties. If at any time after the submission of this response, you discover or believe that any portion of the submitted information is incomplete or misrepresents the truth, notify Mary Jane O'Donnell of this fact as soon as possible and provide EPA with a corrected response.

Questions. If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell at (617) 918-1371 or odonnell.maryjane@epa.gov.

QUESTIONS/INFORMATION REQUESTED

PFG Northcenter
Dalton Road
Augusta, ME 04338

1. Does the Facility have any refrigeration systems that use anhydrous ammonia?
Yes ___ **No** ___ How many? _____
2. What is the inventory of anhydrous ammonia contained within each ammonia refrigeration system referenced in your answer to Question 1 above? (list individually)

Refrigeration System	Inventory of Anhydrous Ammonia (pounds)

3. Has a Process Hazard Review been performed on each ammonia refrigeration system referenced in your answer to Questions 1 and 2 above? **Yes** ___ **No** ___

If yes, specify the type of review, the year of the review, and who conducted it.

Refrigeration System	Type of Process Hazard Review (Specify industry checklist, What-If Analysis, HAZOP Analysis, or other)	Date of Process Hazard Review	Who Conducted Hazard Review (Specify outside team, your company, or other)

4. Has the Facility experienced an ammonia release in the last five years that resulted in deaths, injuries, significant property or environmental damage, evacuations, or sheltering in place? **Yes** ___ **No** ___

If yes, please include a brief description of the ammonia release, including the date, cause, amount released, and consequences of the release. _____

DECLARATION

I declare under penalty of perjury that I am the

_____ of _____,
Title Company

that I am authorized to respond on behalf of

_____, and that the foregoing is a complete, true,
Company

and correct response.

Executed on _____
Date

Signature

Name and Title

Email address

Telephone Number

Compliance Assurance and Enforcement Focus: Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems

Ammonia: An Efficient Refrigerant That Must Be Safely Managed

While anhydrous ammonia has many environmental and operational benefits, it is also an extremely hazardous substance that, if accidentally released, presents a significant health hazard because it is corrosive to the skin, eyes, and lungs. Ammonia is also flammable at certain concentrations in air.



EPA inspection photo reveals dangerous ice buildup on ammonia piping and valves.

How Safe Is Your Refrigeration System?

Accidental releases of ammonia from refrigeration facilities have injured or killed people. See <https://www.epa.gov/sites/production/files/2015-02/documents/112reinforcementalert.pdf>

Some of the most dangerous facilities that EPA inspected were not aware of the hazards that their refrigeration systems posed to the public, emergency responders, and employees.

Does Your Facility Use Ammonia Refrigeration?

The Environmental Protection Agency (EPA) would like to work with facilities that have ammonia refrigeration systems to improve their safety, protect workers and the public from exposure to toxic gas, and avoid product losses.

Notice of Compliance Assurance and Enforcement Initiative

EPA is providing advance notice of an upcoming enforcement initiative so that you can take steps now to avoid a penalty before the initiative begins.

The Initiative will focus on ammonia refrigeration facilities using fewer than 10,000 pounds of anhydrous ammonia to enhance their compliance with the General Duty Clause of Section 112(r) of the Clean Air Act ("CAA"), 42 U.S.C. §(r)(1), and with Section 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11022. Failure to comply with these requirements puts the public at risk of exposure to anhydrous ammonia.

Compliance Help

Go to <https://www.epa.gov/enforcement/compliance-assistance-tools-and-resources-ammonia-refrigeration-sector> for a list of compliance resources, including guidance documents and links to refrigeration-related trade associations.

continued >>

How Can I Comply With The General Duty Clause (GDC)?

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Owners and operators of stationary sources producing, processing, handling, or storing extremely hazardous substances, including anhydrous ammonia, must:

1. identify hazards which may result from accidental releases using appropriate hazard assessment techniques;
2. design and maintain a safe facility taking steps to prevent releases; and
3. minimize the consequences of accidental releases that do occur.

For more information on the General Duty Clause: <https://www.epa.gov/sites/production/files/documents/gendutyclause-rpt.pdf>.

This Initiative focuses on the first duty listed above. Conduct a comprehensive hazard review of your refrigeration system to comply with the duty to identify hazards. Appropriate hazard identification techniques include standard industry checklists and What-if analyses. See above link for more information. Trade associations may be able to help you find experienced consultants and hazard identification materials.

How will EPA's Initiative Work?

Information Request: EPA has begun preliminary investigations into compliance with the General Duty Clause by facilities that it believes has fewer than 10,000 pounds of ammonia. The primary focus of this Initiative is facilities with more than 1,000 pounds of ammonia. EPA will send brief, targeted Information Requests to selected facilities that it has reason to believe may be out of compliance. Facilities will be required to respond to EPA answering four questions about their ammonia refrigeration systems, including whether a process hazard review has been performed. If a facility has not performed the required hazard review, EPA will inform the facility that it has violated the first duty of the General Duty Clause.

Settlement: Unless a significant release has occurred at the facility, EPA will offer to resolve this violation for a discounted penalty, provided the company agrees to perform a hazard review of its system with the help of an expert. The company will also be required to meet with emergency responders and submit any missing Tier II forms.

Follow-up: EPA will inspect a small subset of facilities to determine if the Initiative has improved compliance with the General Duty Clause.

How Can I Comply With EPCRA?

Section 312 of EPCRA requires facilities to report the presence of certain chemicals, including anhydrous ammonia, to emergency planning and response agencies. The goal is to ensure that emergency responders and planners know what chemicals are on site should they need to respond to an incident and that people in the community can get information about chemicals in their neighborhood.

What Can I Do Now To Avoid a Penalty?

If you haven't already, conduct a process hazard review. Companies that respond to the Information Request indicating that a hazard review has already been performed will not need to take further action under this Initiative. To avoid EPCRA penalties, see if you qualify for penalty relief under EPA's Audit Policy. Go to https://www.epa.gov/compliance/epas-audit-policy#_bookmark3 for more information and to <https://www.epa.gov/compliance/epas-edisclosure> for EPA's web-based "e-Disclosure" portal.

EPCRA Inventory Forms (Tier II forms) are due annually by March 1.

For more information about EPCRA reporting, go to: <https://www.epa.gov/epcra>.

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

Office of Small and Disadvantaged Business Utilization (OSDBU)

www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu

EPA's OSDBU advocates and advances business, regulatory, and environmental compliance concerns of small and socio-economically disadvantaged businesses.

EPA's Asbestos Small Business Ombudsman (ASBO)

www.epa.gov/resources-small-businesses/asbestos-small-business-ombudsman or 1-800-368-5888

The EPA ASBO serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

Small Business Environmental Assistance Program

<https://nationalsbeap.org>

This program provides a "one-stop shop" for small businesses and assistance providers seeking information on a wide range of environmental topics and state-specific environmental compliance assistance resources.

EPA's Compliance Assistance Homepage

www.epa.gov/compliance

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

Compliance Assistance Centers

www.complianceassistance.net

EPA sponsored Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Surface Finishing

<http://www.sterc.org>

Paints and Coatings

www.paintcenter.org

Printing

www.pneac.org

Ports

www.portcompliance.org

Transportation

www.tercenter.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

EPA Hotlines and Clearinghouses

www.epa.gov/home/epa-hotlines

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Examples include:

Clean Air Technology Center (CATC) Info-line

www.epa.gov/catc or 1-919-541-0800

Superfund, TRI, EPCRA, RMP, and Oil Information Center

1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or 1-734-214-4100

National Pesticide Information Center

www.npic.orst.edu or 1-800-858-7378

National Response Center Hotline to report oil and hazardous substance spills - <http://nrc.uscg.mil> or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC) -

www.epa.gov/p2/pollution-prevention-resources#ppic or 1-202-566-0799

Safe Drinking Water Hotline -

www.epa.gov/ground-water-and-drinking-water/safe-drinking-water-hotline or 1-800-426-4791

Toxic Substances Control Act (TSCA) Hotline

tsc hotline@epa.gov or 1-202-554-1404

Small Entity Compliance Guides

<https://www.epa.gov/reg-flex/small-entity-compliance-guides>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

Regional Small Business Liaisons

www.epa.gov/resources-small-businesses/epa-regional-office-small-business-liaisons

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

State Resource Locators

www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

<https://nationalsbeap.org/states/list>

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

EPA's Tribal Portal

www.epa.gov/tribalportal

The Portal helps users locate tribal-related information within EPA and other federal agencies.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www.epa.gov/enforcement/small-businesses-and-enforcement

EPA's Audit Policy

www.epa.gov/compliance/epas-audit-policy

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.



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REGION I
5 POST OFFICE SQUARE SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

March 17, 2020

John Sullivan, President
Rich's Transportation Services, Inc.
305 Myles Standish Boulevard
Taunton, MA 02780

Re: Information Request Pursuant to the Clean Air Act

Dear John Sullivan:

In January of 2020, the U.S. Environmental Protection Agency ("EPA") provided you notice of its plans to begin an enforcement initiative to increase companies' compliance with the "General Duty Clause" of Section 112(r)(1) of the Clean Air Act ("CAA"), 42 U.S.C. § 7412(r)(1), in certain states. See "Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems" (attached). This notice was widely shared with companies that operate ammonia refrigeration facilities, ammonia suppliers, ammonia contractors, and trade associations. This letter is part of the described initiative.

Please review this letter carefully. It contains an "Information Request" that requires you to submit certain information to EPA within **thirty (30) days** of your receipt of this letter.

INFORMATION REQUEST

EPA issues this Information Request under the authority of Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), which authorizes EPA to require a company to submit such information and conduct such reporting or auditing as EPA may reasonably require to determine compliance with the CAA and to carry out the purposes of the CAA. It requests certain information about the refrigeration system at Rich's Transportation Services, Inc.'s facility at 305 Myles Standish Boulevard in Taunton, MA ("Facility") in order to investigate your compliance with the General Duty Clause.

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Pursuant to the General Duty Clause, owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the Clean Air Act, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty to:

1. Identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques;
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Guidance documents that further explain the General Duty Clause may be found at <https://www.epa.gov/enforcement/guidance-implementation-general-duty-clause-clean-air-act-cao-section-112r1-may-2000> and <https://www.epa.gov/sites/production/files/2015-02/documents/112renforcementalert.pdf>. Also, the International Institute of Ammonia Refrigeration ("IIAR") has issued industry standards and guidance that can help facilities comply with the General Duty Clause. See, e.g., The Ammonia Refrigeration Management ("ARM") Program, available through www.iiar.org.

Information obtained by EPA, including chemical inventory ("Tier II") reports⁹ submitted by Rich's Transportation Services, Inc., indicates that the refrigeration system uses anhydrous ammonia. Anhydrous ammonia is an extremely hazardous substance subject to the General Duty Clause.

While companies have an obligation to comply with all three duties of the General Duty Clause, this Information Request only focuses on Rich's Transportation Services, Inc.'s compliance with the first duty: the duty to identify hazards which may result from accidental releases of anhydrous ammonia from the refrigeration system. EPA sometimes calls these hazard assessments "process hazard reviews." A process hazard review that complies with the General Duty Clause will identify and evaluate the potential hazards associated with your refrigeration system. It will assess the design and operational safeguards in place to prevent ammonia releases as well as what might happen if the safeguards fail, the effect of facility siting on the hazards, and the risks and consequences of human error. A process hazard review is not the same as an equipment maintenance checklist. IIAR has a template for conducting process hazard reviews using a combined What If/Checklist methodology, although other industry-recognized hazard assessment techniques are also acceptable under the General Duty Clause.

You are required to submit the information requested in the "Information Request" and "Declaration" portions of the enclosed Attachment 1 by filling in all the blanks with the appropriate information. Fill out the form by hand, then return the completed form to the address listed at the top of Attachment 1.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully, or to adequately justify any failure to respond, **within thirty (30) days of receipt of this letter** can result in an enforcement action, including for penalties, by EPA pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. This Information Request is not subject to Office of Management and Budget review under the Paperwork Reduction Act.

⁹ Tier II reports are submitted pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11022.

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FOLLOW-UP TO INFORMATION REQUEST

EPA will review Rich's Transportation Services, Inc.'s response to the Information Request. If the response indicates that Rich's Transportation Services, Inc. has performed a Process Hazard Review of the Refrigeration System, Rich's Transportation Services, Inc.'s involvement in this initiative will conclude.

If Rich's Transportation Services, Inc.'s response reveals a violation of the first duty of the General Duty Clause (*i.e.*, Rich's Transportation Services, Inc. has **not** performed an analysis of the hazards of the refrigeration system), and the Facility has not experienced a significant release of ammonia in the last five years (*i.e.*, you answer "no" in response to question 4), EPA will follow-up by sending Rich's Transportation Services, Inc. an offer to resolve this violation quickly and at a steep discount via an Expedited Settlement Agreement ("ESA"). The ESA will require Rich's Transportation Services, Inc. to retain a third-party expert to perform a Process Hazard Review of the refrigeration system using appropriate hazard assessment techniques. The ESA will also require Rich's Transportation Services, Inc. to meet with the local emergency responders to plan for an emergency response in the event of an ammonia release and to certify that it has filed a Tier II form with local and state emergency responders pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11022, and 40 C.F.R. Part 370.

If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell of my staff at (617) 918-1371 or odonnell.maryjane@epa.gov.

Sincerely,



James Chow, Deputy Director
Enforcement and Compliance Assurance Division

Enclosures

1. Information Request with Declaration
2. Public Notice of Enforcement Initiative
3. Small Business Information Sheet

cc: Christine Foot, Esq., EPA

ATTACHMENT 1

INFORMATION REQUEST

Instructions: Complete this form and the Declaration and mail or e-mail to:

Mary Jane O'Donnell, Chief
Waste and Chemical Compliance Section
Enforcement and Compliance Assurance Division
U. S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100 (Mail Code 05-4)
Boston, Massachusetts 02109-3912
odonnell.maryjane@epa.gov

Guidance on How to Respond. Please respond fully to each of the questions, using the spaces provided. As part of your response, please complete the enclosed Declaration (see below). Your submission must be a self-explanatory, complete response that is dated and signed by an authorized facility official.

Continuing Obligation to Provide/Correct Information. If additional information responsive to these questions becomes known or available after answering this request, including, but not limited to, specific information that may be deemed *unknown* at the time of your response, EPA hereby requests, pursuant to Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), that you supplement your response to EPA within ten (10) days of discovering such information. Please be advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties. If at any time after the submission of this response, you discover or believe that any portion of the submitted information is incomplete or misrepresents the truth, notify Mary Jane O'Donnell of this fact as soon as possible and provide EPA with a corrected response.

Questions. If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell at (617) 918-1371 or odonnell.maryjane@epa.gov.

QUESTIONS/INFORMATION REQUESTED

Rich's Transportation Services, Inc.
305 Myles Standish Boulevard
Taunton, MA 02780

1. Does the Facility have any refrigeration systems that use anhydrous ammonia?
Yes ___ No ___ How many? _____
2. What is the inventory of anhydrous ammonia contained within each ammonia refrigeration system referenced in your answer to Question 1 above? (list individually)

Refrigeration System	Inventory of Anhydrous Ammonia (pounds)

3. Has a Process Hazard Review been performed on each ammonia refrigeration system referenced in your answer to Questions 1 and 2 above? Yes ___ No ___

If yes, specify the type of review, the year of the review, and who conducted it.

Refrigeration System	Type of Process Hazard Review (Specify industry checklist, What-If Analysis, HAZOP Analysis, or other)	Date of Process Hazard Review	Who Conducted Hazard Review (Specify outside team, your company, or other)

4. Has the Facility experienced an ammonia release in the last five years that resulted in deaths, injuries, significant property or environmental damage, evacuations, or sheltering in place? Yes ___ No ___

If yes, please include a brief description of the ammonia release, including the date, cause, amount released, and consequences of the release. _____

DECLARATION

I declare under penalty of perjury that I am the

_____ of _____,
Title Company

that I am authorized to respond on behalf of

_____, and that the foregoing is a complete, true,
Company

and correct response.

Executed on _____
Date

Signature

Name and Title

Email address

Telephone Number

Compliance Assurance and Enforcement Focus: Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems

Ammonia: An Efficient Refrigerant That Must Be Safely Managed

While anhydrous ammonia has many environmental and operational benefits, it is also an extremely hazardous substance that, if accidentally released, presents a significant health hazard because it is corrosive to the skin, eyes, and lungs. Ammonia is also flammable at certain concentrations in air.



EPA inspection photo reveals dangerous ice buildup on ammonia piping and valves.

How Safe Is Your Refrigeration System?

Accidental releases of ammonia from refrigeration facilities have injured or killed people. See <https://www.epa.gov/sites/production/files/2015-02/documents/112enforcementalert.pdf>

Some of the most dangerous facilities that EPA inspected were not aware of the hazards that their refrigeration systems posed to the public, emergency responders, and employees.

Does Your Facility Use Ammonia Refrigeration?

The Environmental Protection Agency (EPA) would like to work with facilities that have ammonia refrigeration systems to improve their safety, protect workers and the public from exposure to toxic gas, and avoid product losses.

Notice of Compliance Assurance and Enforcement Initiative

EPA is providing advance notice of an upcoming enforcement initiative so that you can take steps now to avoid a penalty before the initiative begins.

The Initiative will focus on ammonia refrigeration facilities using fewer than 10,000 pounds of anhydrous ammonia to enhance their compliance with the General Duty Clause of Section 112(r) of the Clean Air Act ("CAA"), 42 U.S.C. §(r)(1), and with Section 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11022. Failure to comply with these requirements puts the public at risk of exposure to anhydrous ammonia.

Compliance Help

Go to <https://www.epa.gov/enforcement/compliance-assistance-tools-and-resources-ammonia-refrigeration-sector> for a list of compliance resources, including guidance documents and links to refrigeration-related trade associations.

continued >>

How Can I Comply With The General Duty Clause (GDC)?

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Owners and operators of stationary sources producing, processing, handling, or storing extremely hazardous substances, including anhydrous ammonia, must:

1. identify hazards which may result from accidental releases using appropriate hazard assessment techniques;
2. design and maintain a safe facility taking steps to prevent releases; and
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For more information on the General Duty Clause: <https://www.epa.gov/sites/production/files/documents/gendutyclause-rpt.pdf>.

This initiative focuses on the first duty listed above. Conduct a comprehensive hazard review of your refrigeration system to comply with the duty to identify hazards. Appropriate hazard identification techniques include standard industry checklists and What-if analyses. See above link for more information. Trade associations may be able to help you find experienced consultants and hazard identification materials.

How will EPA's Initiative Work?

Information Request: EPA has begun preliminary investigations into compliance with the General Duty Clause by facilities that it believes has fewer than 10,000 pounds of ammonia. The primary focus of this Initiative is facilities with more than 1,000 pounds of ammonia. EPA will send brief, targeted Information Requests to selected facilities that it has reason to believe may be out of compliance. Facilities will be required to respond to EPA answering four questions about their ammonia refrigeration systems, including whether a process hazard review has been performed. If a facility has not performed the required hazard review, EPA will inform the facility that it has violated the first duty of the General Duty Clause.

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Follow-up: EPA will inspect a small subset of facilities to determine if the Initiative has improved compliance with the General Duty Clause.

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Section 312 of EPCRA requires facilities to report the presence of certain chemicals, including anhydrous ammonia, to emergency planning and response agencies. The goal is to ensure that emergency responders and planners know what chemicals are on site should they need to respond to an incident and that people in the community can get information about chemicals in their neighborhood.

What Can I Do Now To Avoid a Penalty?

If you haven't already, conduct a process hazard review. Companies that respond to the Information Request indicating that a hazard review has already been performed will not need to take further action under this Initiative. To avoid EPCRA penalties, see if you qualify for penalty relief under EPA's Audit Policy. Go to https://www.epa.gov/compliance/epas-audit-policy#_bookmark3 for more information and to <https://www.epa.gov/compliance/epas-edisclosure> for EPA's web-based "e-Disclosure" portal.

EPCRA Inventory Forms (Tier II forms) are due annually by March 1.

For more information about EPCRA reporting, go to: <https://www.epa.gov/epcra>.

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www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu

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Agriculture

www.epa.gov/agriculture

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Surface Finishing

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Paints and Coatings

www.paintcenter.org

Printing

www.pneac.org

Ports

www.portcompliance.org

Transportation

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National Pesticide Information Center

www.npic.orst.edu or 1-800-858-7378

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The Portal helps users locate tribal-related information within EPA and other federal agencies.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www.epa.gov/enforcement/small-businesses-and-enforcement

EPA's Audit Policy

www.epa.gov/compliance/epas-audit-policy

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

March 17, 2020

Leon Berthiaume, CEO
St. Albans Cooperative Creamery, Inc.
140 Federal Street
St. Albans, VT 05468

Re: Information Request Pursuant to the Clean Air Act

Dear Leon Berthiaume:

In January of 2020, the U.S. Environmental Protection Agency (“EPA”) provided you notice of its plans to begin an enforcement initiative to increase companies’ compliance with the “General Duty Clause” of Section 112(r)(1) of the Clean Air Act (“CAA”), 42 U.S.C. § 7412(r)(1), in certain states. See “Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems” (attached). This notice was widely shared with companies that operate ammonia refrigeration facilities, ammonia suppliers, ammonia contractors, and trade associations. This letter is part of the described initiative.

Please review this letter carefully. It contains an “Information Request” that requires you to submit certain information to EPA within **thirty (30) days** of your receipt of this letter.

INFORMATION REQUEST

EPA issues this Information Request under the authority of Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), which authorizes EPA to require a company to submit such information and conduct such reporting or auditing as EPA may reasonably require to determine compliance with the CAA and to carry out the purposes of the CAA. It requests certain information about the refrigeration system at St. Albans Cooperative Creamery, Inc.’s facility at 140 Federal Street in St. Albans, VT (“Facility”) in order to investigate your compliance with the General Duty Clause.

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Pursuant to the General Duty Clause, owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the Clean Air Act, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty to:

1. Identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques;
2. Design and maintain a safe facility taking such steps as are necessary to prevent releases; and
3. Minimize the consequences of accidental releases that do occur.

Guidance documents that further explain the General Duty Clause may be found at <https://www.epa.gov/enforcement/guidance-implementation-general-duty-clause-clean-air-act-cao-section-112r1-may-2000> and <https://www.epa.gov/sites/production/files/2015-02/documents/112renforcementalert.pdf>. Also, the International Institute of Ammonia Refrigeration ("IIAR") has issued industry standards and guidance that can help facilities comply with the General Duty Clause. *See, e.g.,* The Ammonia Refrigeration Management ("ARM") Program, available through www.iiar.org.

Information obtained by EPA, including chemical inventory ("Tier II") reports¹⁰ submitted by St. Albans Cooperative Creamery, Inc., indicates that the refrigeration system uses anhydrous ammonia. Anhydrous ammonia is an extremely hazardous substance subject to the General Duty Clause.

While companies have an obligation to comply with all three duties of the General Duty Clause, this Information Request only focuses on St. Albans Cooperative Creamery, Inc.'s compliance with the first duty: the duty to identify hazards which may result from accidental releases of anhydrous ammonia from the refrigeration system. EPA sometimes calls these hazard assessments "process hazard reviews." A process hazard review that complies with the General Duty Clause will identify and evaluate the potential hazards associated with your refrigeration system. It will assess the design and operational safeguards in place to prevent ammonia releases as well as what might happen if the safeguards fail, the effect of facility siting on the hazards, and the risks and consequences of human error. A process hazard review is not the same as an equipment maintenance checklist. IIAR has a template for conducting process hazard reviews using a combined What If/Checklist methodology, although other industry-recognized hazard assessment techniques are also acceptable under the General Duty Clause.

You are required to submit the information requested in the "Information Request" and "Declaration" portions of the enclosed Attachment 1 by filling in all the blanks with the appropriate information. Fill out the form by hand, then return the completed form to the address listed at the top of Attachment 1.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully, or to adequately justify any failure to respond, **within thirty (30) days of receipt of this letter** can result in an enforcement action, including for penalties, by EPA pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. This Information Request is not subject to Office of Management and Budget review under the Paperwork Reduction Act.

¹⁰ Tier II reports are submitted pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11022.

You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. § 2.203(b). You should read the above-cited regulations carefully before asserting a business confidentiality claim, as certain categories of information are not properly the subject of such a claim. If no such claim accompanies the information submitted, the information may be made available to the public by EPA without further notice to you.

FOLLOW-UP TO INFORMATION REQUEST

EPA will review St. Albans Cooperative Creamery, Inc.'s response to the Information Request. If the response indicates that St. Albans Cooperative Creamery, Inc. has performed a Process Hazard Review of the Refrigeration System, St. Albans Cooperative Creamery, Inc.'s involvement in this initiative will conclude.

If St. Albans Cooperative Creamery, Inc.'s response reveals a violation of the first duty of the General Duty Clause (*i.e.*, St. Albans Cooperative Creamery, Inc. has **not** performed an analysis of the hazards of the refrigeration system), and the Facility has not experienced a significant release of ammonia in the last five years (*i.e.*, you answer "no" in response to question 4), EPA will follow-up by sending St. Albans Cooperative Creamery, Inc. an offer to resolve this violation quickly and at a steep discount via an Expedited Settlement Agreement ("ESA"). The ESA will require St. Albans Cooperative Creamery, Inc. to retain a third-party expert to perform a Process Hazard Review of the refrigeration system using appropriate hazard assessment techniques. The ESA will also require St. Albans Cooperative Creamery, Inc. to meet with the local emergency responders to plan for an emergency response in the event of an ammonia release and to certify that it has filed a Tier II form with local and state emergency responders pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11022, and 40 C.F.R. Part 370.

If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell of my staff at (617) 918-1371 or odonnell.maryjane@epa.gov.

Sincerely,



James Chow, Deputy Director
Enforcement and Compliance Assurance Division

Enclosures

1. Information Request with Declaration
2. Public Notice of Enforcement Initiative
3. Small Business Information Sheet

cc: Christine Foot, Esq., EPA

ATTACHMENT 1

INFORMATION REQUEST

Instructions: Complete this form and the Declaration and mail or e-mail to:

Mary Jane O'Donnell, Chief
Waste and Chemical Compliance Section
Enforcement and Compliance Assurance Division
U. S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100 (Mail Code 05-4)
Boston, Massachusetts 02109-3912
odonnell.maryjane@epa.gov

Guidance on How to Respond. Please respond fully to each of the questions, using the spaces provided. As part of your response, please complete the enclosed Declaration (see below). Your submission must be a self-explanatory, complete response that is dated and signed by an authorized facility official.

Continuing Obligation to Provide/Correct Information. If additional information responsive to these questions becomes known or available after answering this request, including, but not limited to, specific information that may be deemed *unknown* at the time of your response, EPA hereby requests, pursuant to Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), that you supplement your response to EPA within ten (10) days of discovering such information. Please be advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties. If at any time after the submission of this response, you discover or believe that any portion of the submitted information is incomplete or misrepresents the truth, notify Mary Jane O'Donnell of this fact as soon as possible and provide EPA with a corrected response.

Questions. If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell at (617) 918-1371 or odonnell.maryjane@epa.gov.

QUESTIONS/INFORMATION REQUESTED

St. Albans Cooperative Creamery, Inc.
140 Federal Street
St. Albans, VT 05468

1. Does the Facility have any refrigeration systems that use anhydrous ammonia?
Yes ___ No ___ How many? _____
2. What is the inventory of anhydrous ammonia contained within each ammonia refrigeration system referenced in your answer to Question 1 above? (list individually)

Refrigeration System	Inventory of Anhydrous Ammonia (pounds)

3. Has a Process Hazard Review been performed on each ammonia refrigeration system referenced in your answer to Questions 1 and 2 above? Yes ___ No ___

If yes, specify the type of review, the year of the review, and who conducted it.

Refrigeration System	Type of Process Hazard Review (Specify industry checklist, What-If Analysis, HAZOP Analysis, or other)	Date of Process Hazard Review	Who Conducted Hazard Review (Specify outside team, your company, or other)

4. Has the Facility experienced an ammonia release in the last five years that resulted in deaths, injuries, significant property or environmental damage, evacuations, or sheltering in place? Yes ___ No ___

If yes, please include a brief description of the ammonia release, including the date, cause, amount released, and consequences of the release. _____

DECLARATION

I declare under penalty of perjury that I am the

_____ of _____,
Title Company

that I am authorized to respond on behalf of

_____, and that the foregoing is a complete, true,
Company

and correct response.

Executed on _____
Date

Signature

Name and Title

Email address

Telephone Number

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continued >>

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Construction

www.cicacenter.org

Education

www.campuserc.org

Food Processing

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EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www.epa.gov/enforcement/small-businesses-and-enforcement

EPA's Audit Policy

www.epa.gov/compliance/epas-audit-policy

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

March 17, 2020

David Gabrielson, General Manager
The Martin-Brower Company LLC
191 Moody Rd
Enfield, CT 06082

Re: Information Request Pursuant to the Clean Air Act

Dear David Gabrielson:

In January of 2020, the U.S. Environmental Protection Agency (“EPA”) provided you notice of its plans to begin an enforcement initiative to increase companies’ compliance with the “General Duty Clause” of Section 112(r)(1) of the Clean Air Act (“CAA”), 42 U.S.C. § 7412(r)(1), in certain states. See “Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems” (attached). This notice was widely shared with companies that operate ammonia refrigeration facilities, ammonia suppliers, ammonia contractors, and trade associations. This letter is part of the described initiative.

Please review this letter carefully. It contains an “Information Request” that requires you to submit certain information to EPA within **thirty (30) days** of your receipt of this letter.

INFORMATION REQUEST

EPA issues this Information Request under the authority of Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), which authorizes EPA to require a company to submit such information and conduct such reporting or auditing as EPA may reasonably require to determine compliance with the CAA and to carry out the purposes of the CAA. It requests certain information about the refrigeration system at The Martin-Brower Company LLC’s facility at 191 Moody Rd in Enfield, CT (“Facility”) in order to investigate your compliance with the General Duty Clause.

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Pursuant to the General Duty Clause, owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the Clean Air Act, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty to:

1. Identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques;
2. Design and maintain a safe facility taking such steps as are necessary to prevent releases; and
3. Minimize the consequences of accidental releases that do occur.

Guidance documents that further explain the General Duty Clause may be found at <https://www.epa.gov/enforcement/guidance-implementation-general-duty-clause-clean-air-act-cao-section-112r1-may-2000> and <https://www.epa.gov/sites/production/files/2015-02/documents/112renforcementalert.pdf>. Also, the International Institute of Ammonia Refrigeration (“IIAR”) has issued industry standards and guidance that can help facilities comply with the General Duty Clause. *See, e.g.*, The Ammonia Refrigeration Management (“ARM”) Program, available through www.iiar.org.

Information obtained by EPA, including chemical inventory (“Tier II”) reports¹¹ submitted by The Martin-Brower Company LLC, indicates that the refrigeration system uses anhydrous ammonia. Anhydrous ammonia is an extremely hazardous substance subject to the General Duty Clause.

While companies have an obligation to comply with all three duties of the General Duty Clause, this Information Request only focuses on The Martin-Brower Company LLC’s compliance with the first duty: the duty to identify hazards which may result from accidental releases of anhydrous ammonia from the refrigeration system. EPA sometimes calls these hazard assessments “process hazard reviews.” A process hazard review that complies with the General Duty Clause will identify and evaluate the potential hazards associated with your refrigeration system. It will assess the design and operational safeguards in place to prevent ammonia releases as well as what might happen if the safeguards fail, the effect of facility siting on the hazards, and the risks and consequences of human error. A process hazard review is not the same as an equipment maintenance checklist. IIAR has a template for conducting process hazard reviews using a combined What If/Checklist methodology, although other industry-recognized hazard assessment techniques are also acceptable under the General Duty Clause.

You are required to submit the information requested in the “Information Request” and “Declaration” portions of the enclosed Attachment 1 by filling in all the blanks with the appropriate information. Fill out the form by hand, then return the completed form to the address listed at the top of Attachment 1.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully, or to adequately justify any failure to respond, **within thirty (30) days of receipt of this letter** can result in an enforcement action, including for penalties, by EPA pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. This Information Request is not subject to Office of Management and Budget review under the Paperwork Reduction Act.

¹¹ Tier II reports are submitted pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. § 11022.

You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. § 2.203(b). You should read the above-cited regulations carefully before asserting a business confidentiality claim, as certain categories of information are not properly the subject of such a claim. If no such claim accompanies the information submitted, the information may be made available to the public by EPA without further notice to you.

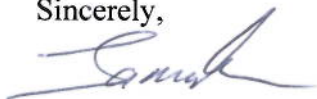
FOLLOW-UP TO INFORMATION REQUEST

EPA will review The Martin-Brower Company LLC's response to the Information Request. If the response indicates that The Martin-Brower Company LLC has performed a Process Hazard Review of the Refrigeration System, The Martin-Brower Company LLC's involvement in this initiative will conclude.

If The Martin-Brower Company LLC's response reveals a violation of the first duty of the General Duty Clause (*i.e.*, The Martin-Brower Company LLC has **not** performed an analysis of the hazards of the refrigeration system), and the Facility has not experienced a significant release of ammonia in the last five years (*i.e.*, you answer "no" in response to question 4), EPA will follow-up by sending The Martin-Brower Company LLC an offer to resolve this violation quickly and at a steep discount via an Expedited Settlement Agreement ("ESA"). The ESA will require The Martin-Brower Company LLC to retain a third-party expert to perform a Process Hazard Review of the refrigeration system using appropriate hazard assessment techniques. The ESA will also require The Martin-Brower Company LLC to meet with the local emergency responders to plan for an emergency response in the event of an ammonia release and to certify that it has filed a Tier II form with local and state emergency responders pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11022, and 40 C.F.R. Part 370.

If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell of my staff at (617) 918-1371 or odonnell.maryjane@epa.gov.

Sincerely,



James Chow, Deputy Director
Enforcement and Compliance Assurance Division

Enclosures

1. Information Request with Declaration
2. Public Notice of Enforcement Initiative
3. Small Business Information Sheet

cc: Christine Foot, Esq., EPA

ATTACHMENT 1

INFORMATION REQUEST

Instructions: Complete this form and the Declaration and mail or e-mail to:

Mary Jane O'Donnell, Chief
Waste and Chemical Compliance Section
Enforcement and Compliance Assurance Division
U. S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100 (Mail Code 05-4)
Boston, Massachusetts 02109-3912
odonnell.maryjane@epa.gov

Guidance on How to Respond. Please respond fully to each of the questions, using the spaces provided. As part of your response, please complete the enclosed Declaration (see below). Your submission must be a self-explanatory, complete response that is dated and signed by an authorized facility official.

Continuing Obligation to Provide/Correct Information. If additional information responsive to these questions becomes known or available after answering this request, including, but not limited to, specific information that may be deemed *unknown* at the time of your response, EPA hereby requests, pursuant to Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), that you supplement your response to EPA within ten (10) days of discovering such information. Please be advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties. If at any time after the submission of this response, you discover or believe that any portion of the submitted information is incomplete or misrepresents the truth, notify Mary Jane O'Donnell of this fact as soon as possible and provide EPA with a corrected response.

Questions. If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell at (617) 918-1371 or odonnell.maryjane@epa.gov.

QUESTIONS/INFORMATION REQUESTED

The Martin-Brower Company LLC
191 Moody Rd
Enfield, CT 06082

1. Does the Facility have any refrigeration systems that use anhydrous ammonia?
Yes ___ No ___ How many? _____
2. What is the inventory of anhydrous ammonia contained within each ammonia refrigeration system referenced in your answer to Question 1 above? (list individually)

Refrigeration System	Inventory of Anhydrous Ammonia (pounds)

3. Has a Process Hazard Review been performed on each ammonia refrigeration system referenced in your answer to Questions 1 and 2 above? Yes ___ No ___

If yes, specify the type of review, the year of the review, and who conducted it.

Refrigeration System	Type of Process Hazard Review (Specify industry checklist, What-If Analysis, HAZOP Analysis, or other)	Date of Process Hazard Review	Who Conducted Hazard Review (Specify outside team, your company, or other)

4. Has the Facility experienced an ammonia release in the last five years that resulted in deaths, injuries, significant property or environmental damage, evacuations, or sheltering in place? Yes ___ No ___

If yes, please include a brief description of the ammonia release, including the date, cause, amount released, and consequences of the release. _____

DECLARATION

I declare under penalty of perjury that I am the

_____ of _____,
Title Company

that I am authorized to respond on behalf of

_____, and that the foregoing is a complete, true,
Company

and correct response.

Executed on _____
Date

Signature

Name and Title

Email address

Telephone Number

Compliance Assurance and Enforcement Focus: Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems

Ammonia: An Efficient Refrigerant That Must Be Safely Managed

While anhydrous ammonia has many environmental and operational benefits, it is also an extremely hazardous substance that, if accidentally released, presents a significant health hazard because it is corrosive to the skin, eyes, and lungs. Ammonia is also flammable at certain concentrations in air.



EPA inspection photo reveals dangerous ice buildup on ammonia piping and valves.

How Safe Is Your Refrigeration System?

Accidental releases of ammonia from refrigeration facilities have injured or killed people. See <https://www.epa.gov/sites/production/files/2015-02/documents/112enforcementalert.pdf>

Some of the most dangerous facilities that EPA inspected were not aware of the hazards that their refrigeration systems posed to the public, emergency responders, and employees.

Does Your Facility Use Ammonia Refrigeration?

The Environmental Protection Agency (EPA) would like to work with facilities that have ammonia refrigeration systems to improve their safety, protect workers and the public from exposure to toxic gas, and avoid product losses.

Notice of Compliance Assurance and Enforcement Initiative

EPA is providing advance notice of an upcoming enforcement initiative so that you can take steps now to avoid a penalty before the initiative begins.

The Initiative will focus on ammonia refrigeration facilities using fewer than 10,000 pounds of anhydrous ammonia to enhance their compliance with the General Duty Clause of Section 112(r) of the Clean Air Act ("CAA"), 42 U.S.C. §(r)(1), and with Section 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11022. Failure to comply with these requirements puts the public at risk of exposure to anhydrous ammonia.

Compliance Help

Go to <https://www.epa.gov/enforcement/compliance-assistance-tools-and-resources-ammonia-refrigeration-sector> for a list of compliance resources, including guidance documents and links to refrigeration-related trade associations.

continued >>

How Can I Comply With The General Duty Clause (GDC)?

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Owners and operators of stationary sources producing, processing, handling, or storing extremely hazardous substances, including anhydrous ammonia, must:

1. identify hazards which may result from accidental releases using appropriate hazard assessment techniques;
2. design and maintain a safe facility taking steps to prevent releases; and
3. minimize the consequences of accidental releases that do occur.

For more information on the General Duty Clause: <https://www.epa.gov/sites/production/files/documents/gendutyclause-rpt.pdf>.

This Initiative focuses on the first duty listed above. Conduct a comprehensive hazard review of your refrigeration system to comply with the duty to identify hazards. Appropriate hazard identification techniques include standard industry checklists and What-if analyses. See above link for more information. Trade associations may be able to help you find experienced consultants and hazard identification materials.

How will EPA's Initiative Work?

Information Request: EPA has begun preliminary investigations into compliance with the General Duty Clause by facilities that it believes has fewer than 10,000 pounds of ammonia. The primary focus of this Initiative is facilities with more than 1,000 pounds of ammonia. EPA will send brief, targeted Information Requests to selected facilities that it has reason to believe may be out of compliance. Facilities will be required to respond to EPA answering four questions about their ammonia refrigeration systems, including whether a process hazard review has been performed. If a facility has not performed the required hazard review, EPA will inform the facility that it has violated the first duty of the General Duty Clause.

Settlement: Unless a significant release has occurred at the facility, EPA will offer to resolve this violation for a discounted penalty, provided the company agrees to perform a hazard review of its system with the help of an expert. The company will also be required to meet with emergency responders and submit any missing Tier II forms.

Follow-up: EPA will inspect a small subset of facilities to determine if the Initiative has improved compliance with the General Duty Clause.

How Can I Comply With EPCRA?

Section 312 of EPCRA requires facilities to report the presence of certain chemicals, including anhydrous ammonia, to emergency planning and response agencies. The goal is to ensure that emergency responders and planners know what chemicals are on site should they need to respond to an incident and that people in the community can get information about chemicals in their neighborhood.

What Can I Do Now To Avoid a Penalty?

If you haven't already, conduct a process hazard review. Companies that respond to the Information Request indicating that a hazard review has already been performed will not need to take further action under this Initiative. To avoid EPCRA penalties, see if you qualify for penalty relief under EPA's Audit Policy. Go to https://www.epa.gov/compliance/epas-audit-policy#_bookmark3 for more information and to <https://www.epa.gov/compliance/epas-edisclosure> for EPA's web-based "e-Disclosure" portal.

EPCRA Inventory Forms (Tier II forms) are due annually by March 1.

For more information about EPCRA reporting, go to: <https://www.epa.gov/epcra>.

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

Office of Small and Disadvantaged Business Utilization (OSDBU)

www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu

EPA's OSDBU advocates and advances business, regulatory, and environmental compliance concerns of small and socio-economically disadvantaged businesses.

EPA's Asbestos Small Business Ombudsman (ASBO)

www.epa.gov/resources-small-businesses/asbestos-small-business-ombudsman or 1-800-368-5888

The EPA ASBO serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

Small Business Environmental Assistance Program

<https://nationalsbeap.org>

This program provides a "one-stop shop" for small businesses and assistance providers seeking information on a wide range of environmental topics and state-specific environmental compliance assistance resources.

EPA's Compliance Assistance Homepage

www.epa.gov/compliance

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

Compliance Assistance Centers

www.complianceassistance.net

EPA sponsored Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Surface Finishing

<http://www.sterc.org>

Paints and Coatings

www.paintcenter.org

Printing

www.pneac.org

Ports

www.portcompliance.org

Transportation

www.tercenter.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

EPA Hotlines and Clearinghouses

www.epa.gov/home/epa-hotlines

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Examples include:

Clean Air Technology Center (CATC) Info-line

www.epa.gov/catc or 1-919-541-0800

Superfund, TRI, EPCRA, RMP, and Oil Information Center

1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or 1-734-214-4100

National Pesticide Information Center

www.npic.orst.edu or 1-800-858-7378

National Response Center Hotline to report oil and hazardous substance spills - <http://nrc.uscg.mil> or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC) -

www.epa.gov/p2/pollution-prevention-resources#ppic or 1-202-566-0799

Safe Drinking Water Hotline -

www.epa.gov/ground-water-and-drinking-water/safe-drinking-water-hotline or 1-800-426-4791

Toxic Substances Control Act (TSCA) Hotline

tsc hotline@epa.gov or 1-202-554-1404

Small Entity Compliance Guides

<https://www.epa.gov/reg-flex/small-entity-compliance-guides>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

Regional Small Business Liaisons

www.epa.gov/resources-small-businesses/epa-regional-office-small-business-liaisons

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

State Resource Locators

www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

<https://nationalsbeap.org/states/list>

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

EPA's Tribal Portal

www.epa.gov/tribalportal

The Portal helps users locate tribal-related information within EPA and other federal agencies.

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EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

March 17, 2020

Chris Richmond, General Manager
United Natural Foods
71 Stow Drive
Chesterfield, NH 03443

Re: Information Request Pursuant to the Clean Air Act

Dear Chris Richmond:

In January of 2020, the U.S. Environmental Protection Agency (“EPA”) provided you notice of its plans to begin an enforcement initiative to increase companies’ compliance with the “General Duty Clause” of Section 112(r)(1) of the Clean Air Act (“CAA”), 42 U.S.C. § 7412(r)(1), in certain states. See “Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems” (attached). This notice was widely shared with companies that operate ammonia refrigeration facilities, ammonia suppliers, ammonia contractors, and trade associations. This letter is part of the described initiative.

Please review this letter carefully. It contains an “Information Request” that requires you to submit certain information to EPA within **thirty (30) days** of your receipt of this letter.

INFORMATION REQUEST

EPA issues this Information Request under the authority of Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), which authorizes EPA to require a company to submit such information and conduct such reporting or auditing as EPA may reasonably require to determine compliance with the CAA and to carry out the purposes of the CAA. It requests certain information about the refrigeration system at United Natural Foods’s facility at 71 Stow Drive in Chesterfield, NH (“Facility”) in order to investigate your compliance with the General Duty Clause.

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Pursuant to the General Duty Clause, owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the Clean Air Act, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty to:

1. Identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques;
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Guidance documents that further explain the General Duty Clause may be found at <https://www.epa.gov/enforcement/guidance-implementation-general-duty-clause-clean-air-act-cao-section-112r1-may-2000> and <https://www.epa.gov/sites/production/files/2015-02/documents/112renforcementalert.pdf>. Also, the International Institute of Ammonia Refrigeration (“IIAR”) has issued industry standards and guidance that can help facilities comply with the General Duty Clause. *See, e.g.*, The Ammonia Refrigeration Management (“ARM”) Program, available through www.iiar.org.

Information obtained by EPA, including chemical inventory (“Tier II”) reports¹² submitted by United Natural Foods, indicates that the refrigeration system uses anhydrous ammonia. Anhydrous ammonia is an extremely hazardous substance subject to the General Duty Clause.

While companies have an obligation to comply with all three duties of the General Duty Clause, this Information Request only focuses on United Natural Foods’s compliance with the first duty: the duty to identify hazards which may result from accidental releases of anhydrous ammonia from the refrigeration system. EPA sometimes calls these hazard assessments “process hazard reviews.” A process hazard review that complies with the General Duty Clause will identify and evaluate the potential hazards associated with your refrigeration system. It will assess the design and operational safeguards in place to prevent ammonia releases as well as what might happen if the safeguards fail, the effect of facility siting on the hazards, and the risks and consequences of human error. A process hazard review is not the same as an equipment maintenance checklist. IIAR has a template for conducting process hazard reviews using a combined What If/Checklist methodology, although other industry-recognized hazard assessment techniques are also acceptable under the General Duty Clause.

You are required to submit the information requested in the “Information Request” and “Declaration” portions of the enclosed Attachment 1 by filling in all the blanks with the appropriate information. Fill out the form by hand, then return the completed form to the address listed at the top of Attachment 1.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully, or to adequately justify any failure to respond, **within thirty (30) days of receipt of this letter** can result in an enforcement action, including for penalties, by EPA pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. This Information Request is not subject to Office of Management and Budget review under the Paperwork Reduction Act.

¹² Tier II reports are submitted pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. § 11022.

You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. § 2.203(b). You should read the above-cited regulations carefully before asserting a business confidentiality claim, as certain categories of information are not properly the subject of such a claim. If no such claim accompanies the information submitted, the information may be made available to the public by EPA without further notice to you.

FOLLOW-UP TO INFORMATION REQUEST

EPA will review United Natural Foods's response to the Information Request. If the response indicates that United Natural Foods has performed a Process Hazard Review of the Refrigeration System, United Natural Foods's involvement in this initiative will conclude.

If United Natural Foods's response reveals a violation of the first duty of the General Duty Clause (*i.e.*, United Natural Foods has **not** performed an analysis of the hazards of the refrigeration system), and the Facility has not experienced a significant release of ammonia in the last five years (*i.e.*, you answer "no" in response to question 4), EPA will follow-up by sending United Natural Foods an offer to resolve this violation quickly and at a steep discount via an Expedited Settlement Agreement ("ESA"). The ESA will require United Natural Foods to retain a third-party expert to perform a Process Hazard Review of the refrigeration system using appropriate hazard assessment techniques. The ESA will also require United Natural Foods to meet with the local emergency responders to plan for an emergency response in the event of an ammonia release and to certify that it has filed a Tier II form with local and state emergency responders pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11022, and 40 C.F.R. Part 370.

If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell of my staff at (617) 918-1371 or odonnell.maryjane@epa.gov.

Sincerely,



James Chow, Deputy Director
Enforcement and Compliance Assurance Division

Enclosures

1. Information Request with Declaration
2. Public Notice of Enforcement Initiative
3. Small Business Information Sheet

cc: Christine Foot, Esq., EPA

ATTACHMENT 1

INFORMATION REQUEST

Instructions: Complete this form and the Declaration and mail or e-mail to:

Mary Jane O'Donnell, Chief
Waste and Chemical Compliance Section
Enforcement and Compliance Assurance Division
U. S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100 (Mail Code 05-4)
Boston, Massachusetts 02109-3912
odonnell.maryjane@epa.gov

Guidance on How to Respond. Please respond fully to each of the questions, using the spaces provided. As part of your response, please complete the enclosed Declaration (see below). Your submission must be a self-explanatory, complete response that is dated and signed by an authorized facility official.

Continuing Obligation to Provide/Correct Information. If additional information responsive to these questions becomes known or available after answering this request, including, but not limited to, specific information that may be deemed *unknown* at the time of your response, EPA hereby requests, pursuant to Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), that you supplement your response to EPA within ten (10) days of discovering such information. Please be advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties. If at any time after the submission of this response, you discover or believe that any portion of the submitted information is incomplete or misrepresents the truth, notify Mary Jane O'Donnell of this fact as soon as possible and provide EPA with a corrected response.

Questions. If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell at (617) 918-1371 or odonnell.maryjane@epa.gov.

QUESTIONS/INFORMATION REQUESTED

United Natural Foods
71 Stow Drive
Chesterfield, NH 03443

1. Does the Facility have any refrigeration systems that use anhydrous ammonia?
Yes ___ No ___ How many? _____
2. What is the inventory of anhydrous ammonia contained within each ammonia refrigeration system referenced in your answer to Question 1 above? (list individually)

Refrigeration System	Inventory of Anhydrous Ammonia (pounds)

3. Has a Process Hazard Review been performed on each ammonia refrigeration system referenced in your answer to Questions 1 and 2 above? Yes ___ No ___

If yes, specify the type of review, the year of the review, and who conducted it.

Refrigeration System	Type of Process Hazard Review (Specify industry checklist, What-If Analysis, HAZOP Analysis, or other)	Date of Process Hazard Review	Who Conducted Hazard Review (Specify outside team, your company, or other)

4. Has the Facility experienced an ammonia release in the last five years that resulted in deaths, injuries, significant property or environmental damage, evacuations, or sheltering in place? Yes ___ No ___

If yes, please include a brief description of the ammonia release, including the date, cause, amount released, and consequences of the release. _____

DECLARATION

I declare under penalty of perjury that I am the

_____ of _____,
Title Company

that I am authorized to respond on behalf of

_____, and that the foregoing is a complete, true,
Company

and correct response.

Executed on _____
Date

Signature

Name and Title

Email address

Telephone Number

Compliance Assurance and Enforcement Focus: Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems

Ammonia: An Efficient Refrigerant That Must Be Safely Managed

While anhydrous ammonia has many environmental and operational benefits, it is also an extremely hazardous substance that, if accidentally released, presents a significant health hazard because it is corrosive to the skin, eyes, and lungs. Ammonia is also flammable at certain concentrations in air.



EPA inspection photo reveals dangerous ice buildup on ammonia piping and valves.

How Safe Is Your Refrigeration System?

Accidental releases of ammonia from refrigeration facilities have injured or killed people. See <https://www.epa.gov/sites/production/files/2015-02/documents/112renforcementalert.pdf>

Some of the most dangerous facilities that EPA inspected were not aware of the hazards that their refrigeration systems posed to the public, emergency responders, and employees.

Does Your Facility Use Ammonia Refrigeration?

The Environmental Protection Agency (EPA) would like to work with facilities that have ammonia refrigeration systems to improve their safety, protect workers and the public from exposure to toxic gas, and avoid product losses.

Notice of Compliance Assurance and Enforcement Initiative

EPA is providing advance notice of an upcoming enforcement initiative so that you can take steps now to avoid a penalty before the initiative begins.

The Initiative will focus on ammonia refrigeration facilities using fewer than 10,000 pounds of anhydrous ammonia to enhance their compliance with the General Duty Clause of Section 112(r) of the Clean Air Act ("CAA"), 42 U.S.C. §(r)(1), and with Section 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11022. Failure to comply with these requirements puts the public at risk of exposure to anhydrous ammonia.

Compliance Help

Go to <https://www.epa.gov/enforcement/compliance-assistance-tools-and-resources-ammonia-refrigeration-sector> for a list of compliance resources, including guidance documents and links to refrigeration-related trade associations.

continued >>

How Can I Comply With The General Duty Clause (GDC)?

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Owners and operators of stationary sources producing, processing, handling, or storing extremely hazardous substances, including anhydrous ammonia, must:

1. identify hazards which may result from accidental releases using appropriate hazard assessment techniques;
2. design and maintain a safe facility taking steps to prevent releases; and
3. minimize the consequences of accidental releases that do occur.

For more information on the General Duty Clause: <https://www.epa.gov/sites/production/files/documents/gendutyclause-rpt.pdf>.

This Initiative focuses on the first duty listed above. Conduct a comprehensive hazard review of your refrigeration system to comply with the duty to identify hazards. Appropriate hazard identification techniques include standard industry checklists and What-if analyses. See above link for more information. Trade associations may be able to help you find experienced consultants and hazard identification materials.

How will EPA's Initiative Work?

Information Request: EPA has begun preliminary investigations into compliance with the General Duty Clause by facilities that it believes has fewer than 10,000 pounds of ammonia. The primary focus of this Initiative is facilities with more than 1,000 pounds of ammonia. EPA will send brief, targeted Information Requests to selected facilities that it has reason to believe may be out of compliance. Facilities will be required to respond to EPA answering four questions about their ammonia refrigeration systems, including whether a process hazard review has been performed. If a facility has not performed the required hazard review, EPA will inform the facility that it has violated the first duty of the General Duty Clause.

Settlement: Unless a significant release has occurred at the facility, EPA will offer to resolve this violation for a discounted penalty, provided the company agrees to perform a hazard review of its system with the help of an expert. The company will also be required to meet with emergency responders and submit any missing Tier II forms.

Follow-up: EPA will inspect a small subset of facilities to determine if the Initiative has improved compliance with the General Duty Clause.

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Section 312 of EPCRA requires facilities to report the presence of certain chemicals, including anhydrous ammonia, to emergency planning and response agencies. The goal is to ensure that emergency responders and planners know what chemicals are on site should they need to respond to an incident and that people in the community can get information about chemicals in their neighborhood.

What Can I Do Now To Avoid a Penalty?

If you haven't already, conduct a process hazard review. Companies that respond to the Information Request indicating that a hazard review has already been performed will not need to take further action under this Initiative. To avoid EPCRA penalties, see if you qualify for penalty relief under EPA's Audit Policy. Go to https://www.epa.gov/compliance/epas-audit-policy#_bookmark3 for more information and to <https://www.epa.gov/compliance/epas-edisclosure> for EPA's web-based "e-Disclosure" portal.

EPCRA Inventory Forms (Tier II forms) are due annually by March 1.

For more information about EPCRA reporting, go to: <https://www.epa.gov/epcra>.

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

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www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu

EPA's OSDBU advocates and advances business, regulatory, and environmental compliance concerns of small and socio-economically disadvantaged businesses.

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Compliance Assistance Centers

www.complianceassistance.net

EPA sponsored Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Surface Finishing

<http://www.sterc.org>

Paints and Coatings

www.paintcenter.org

Printing

www.pneac.org

Ports

www.portcompliance.org

Transportation

www.tcrcenter.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

EPA Hotlines and Clearinghouses

www.epa.gov/home/epa-hotlines

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Examples include:

Clean Air Technology Center (CATC) Info-line

www.epa.gov/catc or 1-919-541-0800

Superfund, TRI, EPCRA, RMP, and Oil Information Center

1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or 1-734-214-4100

National Pesticide Information Center

www.npic.orst.edu or 1-800-858-7378

National Response Center Hotline to report oil and hazardous substance spills - <http://nrc.uscg.mil> or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC) -

www.epa.gov/p2/pollution-prevention-resources#ppic or 1-202-566-0799

Safe Drinking Water Hotline -

www.epa.gov/ground-water-and-drinking-water/safe-drinking-water-hotline or 1-800-426-4791

Toxic Substances Control Act (TSCA) Hotline

tsc hotline@epa.gov or 1-202-554-1404

Small Entity Compliance Guides

<https://www.epa.gov/reg-flex/small-entity-compliance-guides>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

Regional Small Business Liaisons

www.epa.gov/resources-small-businesses/epa-regional-office-small-business-liaisons

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

State Resource Locators

www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

<https://nationalsbeap.org/states/list>

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

EPA's Tribal Portal

www.epa.gov/tribalportal

The Portal helps users locate tribal-related information within EPA and other federal agencies.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www.epa.gov/enforcement/small-businesses-and-enforcement

EPA's Audit Policy

www.epa.gov/compliance/epas-audit-policy

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

March 17, 2020

Jim Flanagan, Operations Manager
US Foods
1 All American Way
North Kingstown, RI 02852

Re: Information Request Pursuant to the Clean Air Act

Dear Jim Flanagan:

In January of 2020, the U.S. Environmental Protection Agency (“EPA”) provided you notice of its plans to begin an enforcement initiative to increase companies’ compliance with the “General Duty Clause” of Section 112(r)(1) of the Clean Air Act (“CAA”), 42 U.S.C. § 7412(r)(1), in certain states. See “Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems” (attached). This notice was widely shared with companies that operate ammonia refrigeration facilities, ammonia suppliers, ammonia contractors, and trade associations. This letter is part of the described initiative.

Please review this letter carefully. It contains an “Information Request” that requires you to submit certain information to EPA within **thirty (30) days** of your receipt of this letter.

INFORMATION REQUEST

EPA issues this Information Request under the authority of Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), which authorizes EPA to require a company to submit such information and conduct such reporting or auditing as EPA may reasonably require to determine compliance with the CAA and to carry out the purposes of the CAA. It requests certain information about the refrigeration system at US Foods’s facility at 1 All American Way in North Kingstown, RI (“Facility”) in order to investigate your compliance with the General Duty Clause.

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Pursuant to the General Duty Clause, owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the Clean Air Act, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty to:

1. Identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques;
2. Design and maintain a safe facility taking such steps as are necessary to prevent releases; and
3. Minimize the consequences of accidental releases that do occur.

Guidance documents that further explain the General Duty Clause may be found at <https://www.epa.gov/enforcement/guidance-implementation-general-duty-clause-clean-air-act-cao-section-112r1-may-2000> and <https://www.epa.gov/sites/production/files/2015-02/documents/112renforcementalert.pdf>. Also, the International Institute of Ammonia Refrigeration ("IIAR") has issued industry standards and guidance that can help facilities comply with the General Duty Clause. *See, e.g.,* The Ammonia Refrigeration Management ("ARM") Program, available through www.iiar.org.

Information obtained by EPA, including chemical inventory ("Tier II") reports¹³ submitted by US Foods, indicates that the refrigeration system uses anhydrous ammonia. Anhydrous ammonia is an extremely hazardous substance subject to the General Duty Clause.

While companies have an obligation to comply with all three duties of the General Duty Clause, this Information Request only focuses on US Foods's compliance with the first duty: the duty to identify hazards which may result from accidental releases of anhydrous ammonia from the refrigeration system. EPA sometimes calls these hazard assessments "process hazard reviews." A process hazard review that complies with the General Duty Clause will identify and evaluate the potential hazards associated with your refrigeration system. It will assess the design and operational safeguards in place to prevent ammonia releases as well as what might happen if the safeguards fail, the effect of facility siting on the hazards, and the risks and consequences of human error. A process hazard review is not the same as an equipment maintenance checklist. IIAR has a template for conducting process hazard reviews using a combined What If/Checklist methodology, although other industry-recognized hazard assessment techniques are also acceptable under the General Duty Clause.

You are required to submit the information requested in the "Information Request" and "Declaration" portions of the enclosed Attachment 1 by filling in all the blanks with the appropriate information. Fill out the form by hand, then return the completed form to the address listed at the top of Attachment 1.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully, or to adequately justify any failure to respond, **within thirty (30) days of receipt of this letter** can result in an enforcement action, including for penalties, by EPA pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. This Information Request is not subject to Office of Management and Budget review under the Paperwork Reduction Act.

You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. § 2.203(b). You should read the

¹³ Tier II reports are submitted pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11022.

above-cited regulations carefully before asserting a business confidentiality claim, as certain categories of information are not properly the subject of such a claim. If no such claim accompanies the information submitted, the information may be made available to the public by EPA without further notice to you.

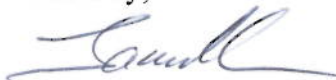
FOLLOW-UP TO INFORMATION REQUEST

EPA will review US Foods's response to the Information Request. If the response indicates that US Foods has performed a Process Hazard Review of the Refrigeration System, US Foods's involvement in this initiative will conclude.

If US Foods's response reveals a violation of the first duty of the General Duty Clause (*i.e.*, US Foods has **not** performed an analysis of the hazards of the refrigeration system), and the Facility has not experienced a significant release of ammonia in the last five years (*i.e.*, you answer "no" in response to question 4), EPA will follow-up by sending US Foods an offer to resolve this violation quickly and at a steep discount via an Expedited Settlement Agreement ("ESA"). The ESA will require US Foods to retain a third-party expert to perform a Process Hazard Review of the refrigeration system using appropriate hazard assessment techniques. The ESA will also require US Foods to meet with the local emergency responders to plan for an emergency response in the event of an ammonia release and to certify that it has filed a Tier II form with local and state emergency responders pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11022, and 40 C.F.R. Part 370.

If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell of my staff at (617) 918-1371 or odonnell.maryjane@epa.gov.

Sincerely,



James Chow, Deputy Director
Enforcement and Compliance Assurance Division

Enclosures

1. Information Request with Declaration
2. Public Notice of Enforcement Initiative
3. Small Business Information Sheet

cc: Christine Foot, Esq., EPA

ATTACHMENT 1

INFORMATION REQUEST

Instructions: Complete this form and the Declaration and mail or e-mail to:

Mary Jane O'Donnell, Chief
Waste and Chemical Compliance Section
Enforcement and Compliance Assurance Division
U. S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100 (Mail Code 05-4)
Boston, Massachusetts 02109-3912
odonnell.maryjane@epa.gov

Guidance on How to Respond. Please respond fully to each of the questions, using the spaces provided. As part of your response, please complete the enclosed Declaration (see below). Your submission must be a self-explanatory, complete response that is dated and signed by an authorized facility official.

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3. Has a Process Hazard Review been performed on each ammonia refrigeration system referenced in your answer to Questions 1 and 2 above? Yes ___ No ___

If yes, specify the type of review, the year of the review, and who conducted it.

Refrigeration System	Type of Process Hazard Review (Specify industry checklist, What-If Analysis, HAZOP Analysis, or other)	Date of Process Hazard Review	Who Conducted Hazard Review (Specify outside team, your company, or other)

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If yes, please include a brief description of the ammonia release, including the date, cause, amount released, and consequences of the release. _____

DECLARATION

I declare under penalty of perjury that I am the

_____ of _____,
Title Company

that I am authorized to respond on behalf of

_____, and that the foregoing is a complete, true,
Company

and correct response.

Executed on _____
Date

Signature

Name and Title

Email address

Telephone Number

Compliance Assurance and Enforcement Focus: Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems

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continued >>

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Agriculture

www.epa.gov/agriculture

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Surface Finishing

<http://www.sterc.org>

Paints and Coatings

www.paintcenter.org

Printing

www.pneac.org

Ports

www.portcompliance.org

Transportation

www.tercenter.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

EPA Hotlines and Clearinghouses

www.epa.gov/home/epa-hotlines

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Examples include:

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www.epa.gov/catc or 1-919-541-0800

Superfund, TRI, EPCRA, RMP, and Oil Information Center

1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or 1-734-214-4100

National Pesticide Information Center

www.npic.orst.edu or 1-800-858-7378

National Response Center Hotline to report oil and hazardous substance spills - <http://nrc.uscg.mil> or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC) -

www.epa.gov/p2/pollution-prevention-resources#ppic or 1-202-566-0799

Safe Drinking Water Hotline -

www.epa.gov/ground-water-and-drinking-water/safe-drinking-water-hotline or 1-800-426-4791

Toxic Substances Control Act (TSCA) Hotline

tsc hotline@epa.gov or 1-202-554-1404

Small Entity Compliance Guides

<https://www.epa.gov/reg-flex/small-entity-compliance-guides>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

Regional Small Business Liaisons

www.epa.gov/resources-small-businesses/epa-regional-office-small-business-liaisons

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

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The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

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EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

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www.epa.gov/enforcement/small-businesses-and-enforcement

EPA's Audit Policy

www.epa.gov/compliance/epas-audit-policy

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The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

March 17, 2020

Jeremy Stutes, V.P. of Operations
US Foods
222 Otrobando Ave.
Norwich, CT 06389

Re: Information Request Pursuant to the Clean Air Act

Dear Jeremy Stutes:

In January of 2020, the U.S. Environmental Protection Agency (“EPA”) provided you notice of its plans to begin an enforcement initiative to increase companies’ compliance with the “General Duty Clause” of Section 112(r)(1) of the Clean Air Act (“CAA”), 42 U.S.C. § 7412(r)(1), in certain states. See “Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems” (attached). This notice was widely shared with companies that operate ammonia refrigeration facilities, ammonia suppliers, ammonia contractors, and trade associations. This letter is part of the described initiative.

Please review this letter carefully. It contains an “Information Request” that requires you to submit certain information to EPA within **thirty (30) days** of your receipt of this letter.

INFORMATION REQUEST

EPA issues this Information Request under the authority of Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), which authorizes EPA to require a company to submit such information and conduct such reporting or auditing as EPA may reasonably require to determine compliance with the CAA and to carry out the purposes of the CAA. It requests certain information about the refrigeration system at US Foods’s facility at 222 Otrobando Ave. in Norwich, CT (“Facility”) in order to investigate your compliance with the General Duty Clause.

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Pursuant to the General Duty Clause, owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the Clean Air Act, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty to:

1. Identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques;

2. Design and maintain a safe facility taking such steps as are necessary to prevent releases; and
3. Minimize the consequences of accidental releases that do occur.

Guidance documents that further explain the General Duty Clause may be found at <https://www.epa.gov/enforcement/guidance-implementation-general-duty-clause-clean-air-act-cao-section-112r1-may-2000> and <https://www.epa.gov/sites/production/files/2015-02/documents/112renforcementalert.pdf>. Also, the International Institute of Ammonia Refrigeration ("IIAR") has issued industry standards and guidance that can help facilities comply with the General Duty Clause. *See, e.g.,* The Ammonia Refrigeration Management ("ARM") Program, available through www.iiar.org.

Information obtained by EPA, including chemical inventory ("Tier II") reports¹⁴ submitted by US Foods, indicates that the refrigeration system uses anhydrous ammonia. Anhydrous ammonia is an extremely hazardous substance subject to the General Duty Clause.

While companies have an obligation to comply with all three duties of the General Duty Clause, this Information Request only focuses on US Foods's compliance with the first duty: the duty to identify hazards which may result from accidental releases of anhydrous ammonia from the refrigeration system. EPA sometimes calls these hazard assessments "process hazard reviews." A process hazard review that complies with the General Duty Clause will identify and evaluate the potential hazards associated with your refrigeration system. It will assess the design and operational safeguards in place to prevent ammonia releases as well as what might happen if the safeguards fail, the effect of facility siting on the hazards, and the risks and consequences of human error. A process hazard review is not the same as an equipment maintenance checklist. IIAR has a template for conducting process hazard reviews using a combined What If/Checklist methodology, although other industry-recognized hazard assessment techniques are also acceptable under the General Duty Clause.

You are required to submit the information requested in the "Information Request" and "Declaration" portions of the enclosed Attachment 1 by filling in all the blanks with the appropriate information. Fill out the form by hand, then return the completed form to the address listed at the top of Attachment 1.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully, or to adequately justify any failure to respond, **within thirty (30) days of receipt of this letter** can result in an enforcement action, including for penalties, by EPA pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. This Information Request is not subject to Office of Management and Budget review under the Paperwork Reduction Act.

You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. § 2.203(b). You should read the above-cited regulations carefully before asserting a business confidentiality claim, as certain categories of information are not properly the subject of such a claim. If no such claim

¹⁴ Tier II reports are submitted pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11022.

accompanies the information submitted, the information may be made available to the public by EPA without further notice to you.

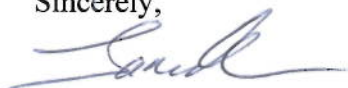
FOLLOW-UP TO INFORMATION REQUEST

EPA will review US Foods's response to the Information Request. If the response indicates that US Foods has performed a Process Hazard Review of the Refrigeration System, US Foods's involvement in this initiative will conclude.

If US Foods's response reveals a violation of the first duty of the General Duty Clause (*i.e.*, US Foods has **not** performed an analysis of the hazards of the refrigeration system), and the Facility has not experienced a significant release of ammonia in the last five years (*i.e.*, you answer "no" in response to question 4), EPA will follow-up by sending US Foods an offer to resolve this violation quickly and at a steep discount via an Expedited Settlement Agreement ("ESA"). The ESA will require US Foods to retain a third-party expert to perform a Process Hazard Review of the refrigeration system using appropriate hazard assessment techniques. The ESA will also require US Foods to meet with the local emergency responders to plan for an emergency response in the event of an ammonia release and to certify that it has filed a Tier II form with local and state emergency responders pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11022, and 40 C.F.R. Part 370.

If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell of my staff at (617) 918-1371 or odonnell.maryjane@epa.gov.

Sincerely,



James Chow, Deputy Director
Enforcement and Compliance Assurance Division

Enclosures

1. Information Request with Declaration
2. Public Notice of Enforcement Initiative
3. Small Business Information Sheet

cc: Christine Foot, Esq., EPA

ATTACHMENT 1

INFORMATION REQUEST

Instructions: Complete this form and the Declaration and mail or e-mail to:

Mary Jane O'Donnell, Chief
Waste and Chemical Compliance Section
Enforcement and Compliance Assurance Division
U. S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100 (Mail Code 05-4)
Boston, Massachusetts 02109-3912
odonnell.maryjane@epa.gov

Guidance on How to Respond. Please respond fully to each of the questions, using the spaces provided. As part of your response, please complete the enclosed Declaration (see below). Your submission must be a self-explanatory, complete response that is dated and signed by an authorized facility official.

Continuing Obligation to Provide/Correct Information. If additional information responsive to these questions becomes known or available after answering this request, including, but not limited to, specific information that may be deemed *unknown* at the time of your response, EPA hereby requests, pursuant to Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), that you supplement your response to EPA within ten (10) days of discovering such information. Please be advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties. If at any time after the submission of this response, you discover or believe that any portion of the submitted information is incomplete or misrepresents the truth, notify Mary Jane O'Donnell of this fact as soon as possible and provide EPA with a corrected response.

Questions. If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell at (617) 918-1371 or odonnell.maryjane@epa.gov.

QUESTIONS/INFORMATION REQUESTED

US Foods
222 Otrobando Ave.
Norwich, CT 06389

1. Does the Facility have any refrigeration systems that use anhydrous ammonia?
Yes ___ No ___ How many? _____
2. What is the inventory of anhydrous ammonia contained within each ammonia refrigeration system referenced in your answer to Question 1 above? (list individually)

Refrigeration System	Inventory of Anhydrous Ammonia (pounds)

3. Has a Process Hazard Review been performed on each ammonia refrigeration system referenced in your answer to Questions 1 and 2 above? Yes ___ No ___

If yes, specify the type of review, the year of the review, and who conducted it.

Refrigeration System	Type of Process Hazard Review (Specify industry checklist, What-If Analysis, HAZOP Analysis, or other)	Date of Process Hazard Review	Who Conducted Hazard Review (Specify outside team, your company, or other)

4. Has the Facility experienced an ammonia release in the last five years that resulted in deaths, injuries, significant property or environmental damage, evacuations, or sheltering in place? Yes ___ No ___

If yes, please include a brief description of the ammonia release, including the date, cause, amount released, and consequences of the release. _____

DECLARATION

I declare under penalty of perjury that I am the

_____ of _____,
Title **Company**

that I am authorized to respond on behalf of

_____, and that the foregoing is a complete, true,
Company

and correct response.

Executed on _____
Date

Signature

Name and Title

Email address

Telephone Number

Compliance Assurance and Enforcement Focus: Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems

Ammonia: An Efficient Refrigerant That Must Be Safely Managed

While anhydrous ammonia has many environmental and operational benefits, it is also an extremely hazardous substance that, if accidentally released, presents a significant health hazard because it is corrosive to the skin, eyes, and lungs. Ammonia is also flammable at certain concentrations in air.



EPA inspection photo reveals dangerous ice buildup on ammonia piping and valves.

How Safe Is Your Refrigeration System?

Accidental releases of ammonia from refrigeration facilities have injured or killed people. See <https://www.epa.gov/sites/production/files/2015-02/documents/112enforcementalert.pdf>

Some of the most dangerous facilities that EPA inspected were not aware of the hazards that their refrigeration systems posed to the public, emergency responders, and employees.

Does Your Facility Use Ammonia Refrigeration?

The Environmental Protection Agency (EPA) would like to work with facilities that have ammonia refrigeration systems to improve their safety, protect workers and the public from exposure to toxic gas, and avoid product losses.

Notice of Compliance Assurance and Enforcement Initiative

EPA is providing advance notice of an upcoming enforcement initiative so that you can take steps now to avoid a penalty before the initiative begins.

The Initiative will focus on ammonia refrigeration facilities using fewer than 10,000 pounds of anhydrous ammonia to enhance their compliance with the General Duty Clause of Section 112(r) of the Clean Air Act ("CAA"), 42 U.S.C. §(r)(1), and with Section 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11022. Failure to comply with these requirements puts the public at risk of exposure to anhydrous ammonia.

Compliance Help

Go to <https://www.epa.gov/enforcement/compliance-assistance-tools-and-resources-ammonia-refrigeration-sector> for a list of compliance resources, including guidance documents and links to refrigeration-related trade associations.

continued >>

How Can I Comply With The General Duty Clause (GDC)?

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Owners and operators of stationary sources producing, processing, handling, or storing extremely hazardous substances, including anhydrous ammonia, must:

1. identify hazards which may result from accidental releases using appropriate hazard assessment techniques;
2. design and maintain a safe facility taking steps to prevent releases; and
3. minimize the consequences of accidental releases that do occur.

For more information on the General Duty Clause: <https://www.epa.gov/sites/production/files/documents/gendutyclause-rpt.pdf>.

This Initiative focuses on the first duty listed above. Conduct a comprehensive hazard review of your refrigeration system to comply with the duty to identify hazards. Appropriate hazard identification techniques include standard industry checklists and What-if analyses. See above link for more information. Trade associations may be able to help you find experienced consultants and hazard identification materials.

How will EPA's Initiative Work?

Information Request: EPA has begun preliminary investigations into compliance with the General Duty Clause by facilities that it believes has fewer than 10,000 pounds of ammonia. The primary focus of this Initiative is facilities with more than 1,000 pounds of ammonia. EPA will send brief, targeted Information Requests to selected facilities that it has reason to believe may be out of compliance. Facilities will be required to respond to EPA answering four questions about their ammonia refrigeration systems, including whether a process hazard review has been performed. If a facility has not performed the required hazard review, EPA will inform the facility that it has violated the first duty of the General Duty Clause.

Settlement: Unless a significant release has occurred at the facility, EPA will offer to resolve this violation for a discounted penalty, provided the company agrees to perform a hazard review of its system with the help of an expert. The company will also be required to meet with emergency responders and submit any missing Tier II forms.

Follow-up: EPA will inspect a small subset of facilities to determine if the Initiative has improved compliance with the General Duty Clause.

How Can I Comply With EPCRA?

Section 312 of EPCRA requires facilities to report the presence of certain chemicals, including anhydrous ammonia, to emergency planning and response agencies. The goal is to ensure that emergency responders and planners know what chemicals are on site should they need to respond to an incident and that people in the community can get information about chemicals in their neighborhood.

What Can I Do Now To Avoid a Penalty?

If you haven't already, conduct a process hazard review. Companies that respond to the Information Request indicating that a hazard review has already been performed will not need to take further action under this Initiative. To avoid EPCRA penalties, see if you qualify for penalty relief under EPA's Audit Policy. Go to https://www.epa.gov/compliance/epas-audit-policy#_bookmark3 for more information and to <https://www.epa.gov/compliance/epas-edisclosure> for EPA's web-based "e-Disclosure" portal.

EPCRA Inventory Forms (Tier II forms) are due annually by March 1.

For more information about EPCRA reporting, go to: <https://www.epa.gov/epcra>.

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

Office of Small and Disadvantaged Business Utilization (OSDBU)

www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu

EPA's OSDBU advocates and advances business, regulatory, and environmental compliance concerns of small and socio-economically disadvantaged businesses.

EPA's Asbestos Small Business Ombudsman (ASBO)

www.epa.gov/resources-small-businesses/asbestos-small-business-ombudsman or 1-800-368-5888

The EPA ASBO serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

Small Business Environmental Assistance Program

<https://nationalsbeap.org>

This program provides a "one-stop shop" for small businesses and assistance providers seeking information on a wide range of environmental topics and state-specific environmental compliance assistance resources.

EPA's Compliance Assistance Homepage

www.epa.gov/compliance

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

Compliance Assistance Centers www.complianceassistance.net

EPA sponsored Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Surface Finishing

<http://www.sterc.org>

Paints and Coatings

www.paintcenter.org

Printing

www.pneac.org

Ports

www.portcompliance.org

Transportation

www.tercenter.org

U.S. Border Compliance and Import/Export Issues

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EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

March 17, 2020

Alan Costantino, President
Venda Ravioli
265 Atwells Ave
Providence, RI 02903

Re: Information Request Pursuant to the Clean Air Act

Dear Alan Costantino:

In February of 2020, the U.S. Environmental Protection Agency (“EPA”) provided you notice of its plans to begin an enforcement initiative to increase companies’ compliance with the “General Duty Clause” of Section 112(r)(1) of the Clean Air Act (“CAA”), 42 U.S.C. § 7412(r)(1), in certain states. See “Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems” (attached). This notice was widely shared with companies that operate ammonia refrigeration facilities, ammonia suppliers, ammonia contractors, and trade associations. This letter is part of the described initiative.

Please review this letter carefully. It contains an “Information Request” that requires you to submit certain information to EPA within **thirty (30) days** of your receipt of this letter.

INFORMATION REQUEST

EPA issues this Information Request under the authority of Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), which authorizes EPA to require a company to submit such information and conduct such reporting or auditing as EPA may reasonably require to determine compliance with the CAA and to carry out the purposes of the CAA. It requests certain information about the refrigeration system at Venda Ravioli’s facility at 150 Royal Little Drive in Providence, RI (“Facility”) in order to investigate your compliance with the General Duty Clause.

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Pursuant to the General Duty Clause, owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the Clean Air Act, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty to:

1. Identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques;
2. Design and maintain a safe facility taking such steps as are necessary to prevent releases; and
3. Minimize the consequences of accidental releases that do occur.

Guidance documents that further explain the General Duty Clause may be found at <https://www.epa.gov/enforcement/guidance-implementation-general-duty-clause-clean-air-act-cao-section-112r1-may-2000> and <https://www.epa.gov/sites/production/files/2015-02/documents/112renforcementalert.pdf>. Also, the International Institute of Ammonia Refrigeration ("IIAR") has issued industry standards and guidance that can help facilities comply with the General Duty Clause. *See, e.g.*, The Ammonia Refrigeration Management ("ARM") Program, available through www.iiar.org.

Information obtained by EPA, including chemical inventory ("Tier II") reports¹⁵ submitted by Venda Ravioli, indicates that the refrigeration system uses anhydrous ammonia. Anhydrous ammonia is an extremely hazardous substance subject to the General Duty Clause.

While companies have an obligation to comply with all three duties of the General Duty Clause, this Information Request only focuses on Venda Ravioli's compliance with the first duty: the duty to identify hazards which may result from accidental releases of anhydrous ammonia from the refrigeration system. EPA sometimes calls these hazard assessments "process hazard reviews." A process hazard review that complies with the General Duty Clause will identify and evaluate the potential hazards associated with your refrigeration system. It will assess the design and operational safeguards in place to prevent ammonia releases as well as what might happen if the safeguards fail, the effect of facility siting on the hazards, and the risks and consequences of human error. A process hazard review is not the same as an equipment maintenance checklist. IIAR has a template for conducting process hazard reviews using a combined What If/Checklist methodology, although other industry-recognized hazard assessment techniques are also acceptable under the General Duty Clause.

You are required to submit the information requested in the "Information Request" and "Declaration" portions of the enclosed Attachment 1 by filling in all the blanks with the appropriate information. Fill out the form by hand, then return the completed form to the address listed at the top of Attachment 1.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully, or to adequately justify any failure to respond, **within thirty (30) days of receipt of this letter** can result in an enforcement action, including for penalties, by EPA pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. This Information Request is not subject to Office of Management and Budget review under the Paperwork Reduction Act.

You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. § 2.203(b). You should read the

¹⁵ Tier II reports are submitted pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11022.

above-cited regulations carefully before asserting a business confidentiality claim, as certain categories of information are not properly the subject of such a claim. If no such claim accompanies the information submitted, the information may be made available to the public by EPA without further notice to you.

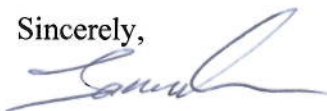
FOLLOW-UP TO INFORMATION REQUEST

EPA will review Venda Ravioli's response to the Information Request. If the response indicates that Venda Ravioli has performed a Process Hazard Review of the Refrigeration System, Venda Ravioli's involvement in this initiative will conclude.

If Venda Ravioli's response reveals a violation of the first duty of the General Duty Clause (*i.e.*, Venda Ravioli has **not** performed an analysis of the hazards of the refrigeration system), and the Facility has not experienced a significant release of ammonia in the last five years (*i.e.*, you answer "no" in response to question 4), EPA will follow-up by sending Venda Ravioli an offer to resolve this violation quickly and at a steep discount via an Expedited Settlement Agreement ("ESA"). The ESA will require Venda Ravioli to retain a third-party expert to perform a Process Hazard Review of the refrigeration system using appropriate hazard assessment techniques. The ESA will also require Venda Ravioli to meet with the local emergency responders to plan for an emergency response in the event of an ammonia release and to certify that it has filed a Tier II form with local and state emergency responders pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11022, and 40 C.F.R. Part 370.

If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell of my staff at (617) 918-1371 or odonnell.maryjane@epa.gov.

Sincerely,



James Chow, Deputy Director
Enforcement and Compliance Assurance Division

Enclosures

1. Information Request with Declaration
2. Public Notice of Enforcement Initiative
3. Small Business Information Sheet

cc: Christine Foot, Esq., EPA

ATTACHMENT 1

INFORMATION REQUEST

Instructions: Complete this form and the Declaration and mail or e-mail to:

Mary Jane O'Donnell, Chief
Waste and Chemical Compliance Section
Enforcement and Compliance Assurance Division
U. S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100 (Mail Code 05-4)
Boston, Massachusetts 02109-3912
odonnell.maryjane@epa.gov

Guidance on How to Respond. Please respond fully to each of the questions, using the spaces provided. As part of your response, please complete the enclosed Declaration (see below). Your submission must be a self-explanatory, complete response that is dated and signed by an authorized facility official.

Continuing Obligation to Provide/Correct Information. If additional information responsive to these questions becomes known or available after answering this request, including, but not limited to, specific information that may be deemed *unknown* at the time of your response, EPA hereby requests, pursuant to Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), that you supplement your response to EPA within ten (10) days of discovering such information. Please be advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties. If at any time after the submission of this response, you discover or believe that any portion of the submitted information is incomplete or misrepresents the truth, notify Mary Jane O'Donnell of this fact as soon as possible and provide EPA with a corrected response.

Questions. If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell at (617) 918-1371 or odonnell.maryjane@epa.gov.

QUESTIONS/INFORMATION REQUESTED

Venda Ravioli
150 Royal Little Drive
Providence, RI 02903

1. Does the Facility have any refrigeration systems that use anhydrous ammonia?
Yes ___ **No** ___ How many? _____
2. What is the inventory of anhydrous ammonia contained within each ammonia refrigeration system referenced in your answer to Question 1 above? (list individually)

Refrigeration System	Inventory of Anhydrous Ammonia (pounds)

3. Has a Process Hazard Review been performed on each ammonia refrigeration system referenced in your answer to Questions 1 and 2 above? **Yes** ___ **No** ___

If yes, specify the type of review, the year of the review, and who conducted it.

Refrigeration System	Type of Process Hazard Review (Specify industry checklist, What-If Analysis, HAZOP Analysis, or other)	Date of Process Hazard Review	Who Conducted Hazard Review (Specify outside team, your company, or other)

4. Has the Facility experienced an ammonia release in the last five years that resulted in deaths, injuries, significant property or environmental damage, evacuations, or sheltering in place? **Yes** ___ **No** ___

If yes, please include a brief description of the ammonia release, including the date, cause, amount released, and consequences of the release. _____

DECLARATION

I declare under penalty of perjury that I am the

_____ of _____,
Title Company

that I am authorized to respond on behalf of

_____, and that the foregoing is a complete, true,
Company

and correct response.

Executed on _____
Date

Signature

Name and Title

Email address

Telephone Number

Compliance Assurance and Enforcement Focus: Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems

Ammonia: An Efficient Refrigerant That Must Be Safely Managed

While anhydrous ammonia has many environmental and operational benefits, it is also an extremely hazardous substance that, if accidentally released, presents a significant health hazard because it is corrosive to the skin, eyes, and lungs. Ammonia is also flammable at certain concentrations in air.



EPA inspection photo reveals dangerous ice buildup on ammonia piping and valves.

How Safe Is Your Refrigeration System?

Accidental releases of ammonia from refrigeration facilities have injured or killed people. See <https://www.epa.gov/sites/production/files/2015-02/documents/112reinforcementalert.pdf>

Some of the most dangerous facilities that EPA inspected were not aware of the hazards that their refrigeration systems posed to the public, emergency responders, and employees.

Does Your Facility Use Ammonia Refrigeration?

The Environmental Protection Agency (EPA) would like to work with facilities that have ammonia refrigeration systems to improve their safety, protect workers and the public from exposure to toxic gas, and avoid product losses.

Notice of Compliance Assurance and Enforcement Initiative

EPA is providing advance notice of an upcoming enforcement initiative so that you can take steps now to avoid a penalty before the initiative begins.

The Initiative will focus on ammonia refrigeration facilities using fewer than 10,000 pounds of anhydrous ammonia to enhance their compliance with the General Duty Clause of Section 112(r) of the Clean Air Act ("CAA"), 42 U.S.C. §(r)(1), and with Section 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11022. Failure to comply with these requirements puts the public at risk of exposure to anhydrous ammonia.

Compliance Help

Go to <https://www.epa.gov/enforcement/compliance-assistance-tools-and-resources-ammonia-refrigeration-sector> for a list of compliance resources, including guidance documents and links to refrigeration-related trade associations.

continued >>

How Can I Comply With The General Duty Clause (GDC)?

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Owners and operators of stationary sources producing, processing, handling, or storing extremely hazardous substances, including anhydrous ammonia, must:

1. identify hazards which may result from accidental releases using appropriate hazard assessment techniques;
2. design and maintain a safe facility taking steps to prevent releases; and
3. minimize the consequences of accidental releases that do occur.

For more information on the General Duty Clause: <https://www.epa.gov/sites/production/files/documents/gendutyclause-rpt.pdf>.

This Initiative focuses on the first duty listed above. Conduct a comprehensive hazard review of your refrigeration system to comply with the duty to identify hazards. Appropriate hazard identification techniques include standard industry checklists and What-if analyses. See above link for more information. Trade associations may be able to help you find experienced consultants and hazard identification materials.

How will EPA's Initiative Work?

Information Request: EPA has begun preliminary investigations into compliance with the General Duty Clause by facilities that it believes has fewer than 10,000 pounds of ammonia. The primary focus of this Initiative is facilities with more than 1,000 pounds of ammonia. EPA will send brief, targeted Information Requests to selected facilities that it has reason to believe may be out of compliance. Facilities will be required to respond to EPA answering four questions about their ammonia refrigeration systems, including whether a process hazard review has been performed. If a facility has not performed the required hazard review, EPA will inform the facility that it has violated the first duty of the General Duty Clause.

Settlement: Unless a significant release has occurred at the facility, EPA will offer to resolve this violation for a discounted penalty, provided the company agrees to perform a hazard review of its system with the help of an expert. The company will also be required to meet with emergency responders and submit any missing Tier II forms.

Follow-up: EPA will inspect a small subset of facilities to determine if the Initiative has improved compliance with the General Duty Clause.

How Can I Comply With EPCRA?

Section 312 of EPCRA requires facilities to report the presence of certain chemicals, including anhydrous ammonia, to emergency planning and response agencies. The goal is to ensure that emergency responders and planners know what chemicals are on site should they need to respond to an incident and that people in the community can get information about chemicals in their neighborhood.

What Can I Do Now To Avoid a Penalty?

If you haven't already, conduct a process hazard review. Companies that respond to the Information Request indicating that a hazard review has already been performed will not need to take further action under this Initiative. To avoid EPCRA penalties, see if you qualify for penalty relief under EPA's Audit Policy. Go to https://www.epa.gov/compliance/epas-audit-policy#_bookmark3 for more information and to <https://www.epa.gov/compliance/epas-edisclosure> for EPA's web-based "e-Disclosure" portal.

EPCRA Inventory Forms (Tier II forms) are due annually by March 1.

For more information about EPCRA reporting, go to: <https://www.epa.gov/epcra>.

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

Office of Small and Disadvantaged Business Utilization (OSDBU)

www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu

EPA's OSDBU advocates and advances business, regulatory, and environmental compliance concerns of small and socio-economically disadvantaged businesses.

EPA's Asbestos Small Business Ombudsman (ASBO)

www.epa.gov/resources-small-businesses/asbestos-small-business-ombudsman or 1-800-368-5888

The EPA ASBO serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

Small Business Environmental Assistance Program

<https://nationalsbeap.org>

This program provides a "one-stop shop" for small businesses and assistance providers seeking information on a wide range of environmental topics and state-specific environmental compliance assistance resources.

EPA's Compliance Assistance Homepage

www.epa.gov/compliance

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

Compliance Assistance Centers

www.complianceassistance.net

EPA sponsored Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Surface Finishing

<http://www.sterc.org>

Paints and Coatings

www.paintcenter.org

Printing

www.pneac.org

Ports

www.portcompliance.org

Transportation

www.tercenter.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

EPA Hotlines and Clearinghouses

www.epa.gov/home/epa-hotlines

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Examples include:

Clean Air Technology Center (CATC) Info-line

www.epa.gov/catc or 1-919-541-0800

Superfund, TRI, EPCRA, RMP, and Oil Information Center

1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or 1-734-214-4100

National Pesticide Information Center

www.npic.orst.edu or 1-800-858-7378

National Response Center Hotline to report oil and hazardous substance spills - <http://nrc.uscg.mil> or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC) -

www.epa.gov/p2/pollution-prevention-resources#ppic or 1-202-566-0799

Safe Drinking Water Hotline -

www.epa.gov/ground-water-and-drinking-water/safe-drinking-water-hotline or 1-800-426-4791

Toxic Substances Control Act (TSCA) Hotline

tsc hotline@epa.gov or 1-202-554-1404

Small Entity Compliance Guides

<https://www.epa.gov/reg-flex/small-entity-compliance-guides>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

Regional Small Business Liaisons

www.epa.gov/resources-small-businesses/epa-regional-office-small-business-liaisons

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

State Resource Locators

www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

<https://nationalsbeap.org/states/list>

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

EPA's Tribal Portal

www.epa.gov/tribalportal

The Portal helps users locate tribal-related information within EPA and other federal agencies.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www.epa.gov/enforcement/small-businesses-and-enforcement

EPA's Audit Policy

www.epa.gov/compliance/epas-audit-policy

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

March 17, 2020

Mark Perez, DC Manager
World Class Distribution, Inc.
210 Phoenix Crossing
Bloomfield, CT 06002

Re: Information Request Pursuant to the Clean Air Act

Dear Mark Perez:

In January of 2020, the U.S. Environmental Protection Agency (“EPA”) provided you notice of its plans to begin an enforcement initiative to increase companies’ compliance with the “General Duty Clause” of Section 112(r)(1) of the Clean Air Act (“CAA”), 42 U.S.C. § 7412(r)(1), in certain states. See “Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems” (attached). This notice was widely shared with companies that operate ammonia refrigeration facilities, ammonia suppliers, ammonia contractors, and trade associations. This letter is part of the described initiative.

Please review this letter carefully. It contains an “Information Request” that requires you to submit certain information to EPA within **thirty (30) days** of your receipt of this letter.

INFORMATION REQUEST

EPA issues this Information Request under the authority of Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), which authorizes EPA to require a company to submit such information and conduct such reporting or auditing as EPA may reasonably require to determine compliance with the CAA and to carry out the purposes of the CAA. It requests certain information about the refrigeration system at World Class Distribution, Inc.’s facility at 210 Phoenix Crossing in Bloomfield, CT (“Facility”) in order to investigate your compliance with the General Duty Clause.

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Pursuant to the General Duty Clause, owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the Clean Air Act, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty to:

1. Identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques;
2. Design and maintain a safe facility taking such steps as are necessary to prevent releases; and
3. Minimize the consequences of accidental releases that do occur.

Guidance documents that further explain the General Duty Clause may be found at <https://www.epa.gov/enforcement/guidance-implementation-general-duty-clause-clean-air-act-cao-section-112r1-may-2000> and <https://www.epa.gov/sites/production/files/2015-02/documents/112renforcementalert.pdf>. Also, the International Institute of Ammonia Refrigeration ("IIAR") has issued industry standards and guidance that can help facilities comply with the General Duty Clause. *See, e.g.,* The Ammonia Refrigeration Management ("ARM") Program, available through www.iiar.org.

Information obtained by EPA, including chemical inventory ("Tier II") reports¹⁶ submitted by World Class Distribution, Inc., indicates that the refrigeration system uses anhydrous ammonia. Anhydrous ammonia is an extremely hazardous substance subject to the General Duty Clause.

While companies have an obligation to comply with all three duties of the General Duty Clause, this Information Request only focuses on World Class Distribution, Inc.'s compliance with the first duty: the duty to identify hazards which may result from accidental releases of anhydrous ammonia from the refrigeration system. EPA sometimes calls these hazard assessments "process hazard reviews." A process hazard review that complies with the General Duty Clause will identify and evaluate the potential hazards associated with your refrigeration system. It will assess the design and operational safeguards in place to prevent ammonia releases as well as what might happen if the safeguards fail, the effect of facility siting on the hazards, and the risks and consequences of human error. A process hazard review is not the same as an equipment maintenance checklist. IIAR has a template for conducting process hazard reviews using a combined What If/Checklist methodology, although other industry-recognized hazard assessment techniques are also acceptable under the General Duty Clause.

You are required to submit the information requested in the "Information Request" and "Declaration" portions of the enclosed Attachment 1 by filling in all the blanks with the appropriate information. Fill out the form by hand, then return the completed form to the address listed at the top of Attachment 1.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully, or to adequately justify any failure to respond, **within thirty (30) days of receipt of this letter** can result in an enforcement action, including for penalties, by EPA pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. This Information Request is not subject to Office of Management and Budget review under the Paperwork Reduction Act.

¹⁶ Tier II reports are submitted pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11022.

You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. § 2.203(b). You should read the above-cited regulations carefully before asserting a business confidentiality claim, as certain categories of information are not properly the subject of such a claim. If no such claim accompanies the information submitted, the information may be made available to the public by EPA without further notice to you.

FOLLOW-UP TO INFORMATION REQUEST

EPA will review World Class Distribution, Inc.'s response to the Information Request. If the response indicates that World Class Distribution, Inc. has performed a Process Hazard Review of the Refrigeration System, World Class Distribution, Inc.'s involvement in this initiative will conclude.

If World Class Distribution, Inc.'s response reveals a violation of the first duty of the General Duty Clause (*i.e.*, World Class Distribution, Inc. has **not** performed an analysis of the hazards of the refrigeration system), and the Facility has not experienced a significant release of ammonia in the last five years (*i.e.*, you answer "no" in response to question 4), EPA will follow-up by sending World Class Distribution, Inc. an offer to resolve this violation quickly and at a steep discount via an Expedited Settlement Agreement ("ESA"). The ESA will require World Class Distribution, Inc. to retain a third-party expert to perform a Process Hazard Review of the refrigeration system using appropriate hazard assessment techniques. The ESA will also require World Class Distribution, Inc. to meet with the local emergency responders to plan for an emergency response in the event of an ammonia release and to certify that it has filed a Tier II form with local and state emergency responders pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11022, and 40 C.F.R. Part 370.

If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell of my staff at (617) 918-1371 or odonnell.maryjane@epa.gov.

Sincerely,



James Chow, Deputy Director
Enforcement and Compliance Assurance Division

Enclosures

1. Information Request with Declaration
2. Public Notice of Enforcement Initiative
3. Small Business Information Sheet

cc: Christine Foot, Esq., EPA

ATTACHMENT 1

INFORMATION REQUEST

Instructions: Complete this form and the Declaration and mail or e-mail to:

Mary Jane O'Donnell, Chief
Waste and Chemical Compliance Section
Enforcement and Compliance Assurance Division
U. S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100 (Mail Code 05-4)
Boston, Massachusetts 02109-3912
odonnell.maryjane@epa.gov

Guidance on How to Respond. Please respond fully to each of the questions, using the spaces provided. As part of your response, please complete the enclosed Declaration (see below). Your submission must be a self-explanatory, complete response that is dated and signed by an authorized facility official.

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Questions. If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell at (617) 918-1371 or odonnell.maryjane@epa.gov.

QUESTIONS/INFORMATION REQUESTED

World Class Distribution, Inc.
210 Phoenix Crossing
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1. Does the Facility have any refrigeration systems that use anhydrous ammonia?
Yes ___ **No** ___ How many? _____
2. What is the inventory of anhydrous ammonia contained within each ammonia refrigeration system referenced in your answer to Question 1 above? (list individually)

Refrigeration System	Inventory of Anhydrous Ammonia (pounds)

3. Has a Process Hazard Review been performed on each ammonia refrigeration system referenced in your answer to Questions 1 and 2 above? **Yes** ___ **No** ___

If yes, specify the type of review, the year of the review, and who conducted it.

Refrigeration System	Type of Process Hazard Review (Specify industry checklist, What-If Analysis, HAZOP Analysis, or other)	Date of Process Hazard Review	Who Conducted Hazard Review (Specify outside team, your company, or other)

4. Has the Facility experienced an ammonia release in the last five years that resulted in deaths, injuries, significant property or environmental damage, evacuations, or sheltering in place? **Yes** ___ **No** ___

If yes, please include a brief description of the ammonia release, including the date, cause, amount released, and consequences of the release. _____

DECLARATION

I declare under penalty of perjury that I am the

_____ of _____,
Title Company

that I am authorized to respond on behalf of

_____, and that the foregoing is a complete, true,
Company

and correct response.

Executed on _____
Date

Signature

Name and Title

Email address

Telephone Number

Compliance Assurance and Enforcement Focus: Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems

Ammonia: An Efficient Refrigerant That Must Be Safely Managed

While anhydrous ammonia has many environmental and operational benefits, it is also an extremely hazardous substance that, if accidentally released, presents a significant health hazard because it is corrosive to the skin, eyes, and lungs. Ammonia is also flammable at certain concentrations in air.



EPA inspection photo reveals dangerous ice buildup on ammonia piping and valves.

How Safe Is Your Refrigeration System?

Accidental releases of ammonia from refrigeration facilities have injured or killed people. See <https://www.epa.gov/sites/production/files/2015-02/documents/112reinforcementalert.pdf>

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Does Your Facility Use Ammonia Refrigeration?

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Compliance Help

Go to <https://www.epa.gov/enforcement/compliance-assistance-tools-and-resources-ammonia-refrigeration-sector> for a list of compliance resources, including guidance documents and links to refrigeration-related trade associations.

continued >>

How Can I Comply With The General Duty Clause (GDC)?

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Owners and operators of stationary sources producing, processing, handling, or storing extremely hazardous substances, including anhydrous ammonia, must:

1. identify hazards which may result from accidental releases using appropriate hazard assessment techniques;
2. design and maintain a safe facility taking steps to prevent releases; and
3. minimize the consequences of accidental releases that do occur.

For more information on the General Duty Clause: <https://www.epa.gov/sites/production/files/documents/gendutyclause-rpt.pdf>.

This Initiative focuses on the first duty listed above. Conduct a comprehensive hazard review of your refrigeration system to comply with the duty to identify hazards. Appropriate hazard identification techniques include standard industry checklists and What-if analyses. See above link for more information. Trade associations may be able to help you find experienced consultants and hazard identification materials.

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If you haven't already, conduct a process hazard review. Companies that respond to the Information Request indicating that a hazard review has already been performed will not need to take further action under this Initiative. To avoid EPCRA penalties, see if you qualify for penalty relief under EPA's Audit Policy. Go to https://www.epa.gov/compliance/epas-audit-policy#_bookmark3 for more information and to <https://www.epa.gov/compliance/epas-edisclosure> for EPA's web-based "e-Disclosure" portal.

EPCRA Inventory Forms (Tier II forms) are due annually by March 1.

For more information about EPCRA reporting, go to: <https://www.epa.gov/epcra>.

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

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www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu

EPA's OSDBU advocates and advances business, regulatory, and environmental compliance concerns of small and socio-economically disadvantaged businesses.

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Agriculture

www.epa.gov/agriculture

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Surface Finishing

<http://www.sterc.org>

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Ports

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EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

March 17, 2020

Jay Rosen, President
Nova Coldstore
425 Constitution Drive
Taunton, MA 02780

Re: Information Request Pursuant to the Clean Air Act

Dear Jay Rosen:

In January of 2020, the U.S. Environmental Protection Agency (“EPA”) provided you notice of its plans to begin an enforcement initiative to increase companies’ compliance with the “General Duty Clause” of Section 112(r)(1) of the Clean Air Act (“CAA”), 42 U.S.C. § 7412(r)(1), in certain states. See “Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems” (attached). This notice was widely shared with companies that operate ammonia refrigeration facilities, ammonia suppliers, ammonia contractors, and trade associations. This letter is part of the described initiative.

Please review this letter carefully. It contains an “Information Request” that requires you to submit certain information to EPA within **thirty (30) days** of your receipt of this letter.

INFORMATION REQUEST

EPA issues this Information Request under the authority of Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), which authorizes EPA to require a company to submit such information and conduct such reporting or auditing as EPA may reasonably require to determine compliance with the CAA and to carry out the purposes of the CAA. It requests certain information about the refrigeration system at Nova Coldstore’s facility at 425 Constitution Drive in Taunton, MA (“Facility”) in order to investigate your compliance with the General Duty Clause.

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Pursuant to the General Duty Clause, owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the Clean Air Act, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty to:

1. Identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques;
2. Design and maintain a safe facility taking such steps as are necessary to prevent releases; and
3. Minimize the consequences of accidental releases that do occur.

Guidance documents that further explain the General Duty Clause may be found at <https://www.epa.gov/enforcement/guidance-implementation-general-duty-clause-clean-air-act-cao-section-112r1-may-2000> and <https://www.epa.gov/sites/production/files/2015-02/documents/112renforcementalert.pdf>. Also, the International Institute of Ammonia Refrigeration ("IIAR") has issued industry standards and guidance that can help facilities comply with the General Duty Clause. *See, e.g.,* The Ammonia Refrigeration Management ("ARM") Program, available through www.iiar.org.

Information obtained by EPA, including chemical inventory ("Tier II") reports¹⁷ submitted by Nova Coldstore, indicates that the refrigeration system uses anhydrous ammonia. Anhydrous ammonia is an extremely hazardous substance subject to the General Duty Clause.

While companies have an obligation to comply with all three duties of the General Duty Clause, this Information Request only focuses on Nova Coldstore's compliance with the first duty: the duty to identify hazards which may result from accidental releases of anhydrous ammonia from the refrigeration system. EPA sometimes calls these hazard assessments "process hazard reviews." A process hazard review that complies with the General Duty Clause will identify and evaluate the potential hazards associated with your refrigeration system. It will assess the design and operational safeguards in place to prevent ammonia releases as well as what might happen if the safeguards fail, the effect of facility siting on the hazards, and the risks and consequences of human error. A process hazard review is not the same as an equipment maintenance checklist. IIAR has a template for conducting process hazard reviews using a combined What If/Checklist methodology, although other industry-recognized hazard assessment techniques are also acceptable under the General Duty Clause.

You are required to submit the information requested in the "Information Request" and "Declaration" portions of the enclosed Attachment 1 by filling in all the blanks with the appropriate information. Fill out the form by hand, then return the completed form to the address listed at the top of Attachment 1.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully, or to adequately justify any failure to respond, **within thirty (30) days of receipt of this letter** can result in an enforcement action, including for penalties, by EPA pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. This Information Request is not subject to Office of Management and Budget review under the Paperwork Reduction Act.

You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. § 2.203(b). You should read the

¹⁷ Tier II reports are submitted pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11022.

above-cited regulations carefully before asserting a business confidentiality claim, as certain categories of information are not properly the subject of such a claim. If no such claim accompanies the information submitted, the information may be made available to the public by EPA without further notice to you.

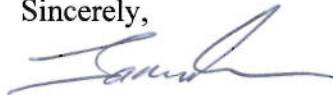
FOLLOW-UP TO INFORMATION REQUEST

EPA will review Nova Coldstore's response to the Information Request. If the response indicates that Nova Coldstore has performed a Process Hazard Review of the Refrigeration System, Nova Coldstore's involvement in this initiative will conclude.

If Nova Coldstore's response reveals a violation of the first duty of the General Duty Clause (*i.e.*, Nova Coldstore has **not** performed an analysis of the hazards of the refrigeration system), and the Facility has not experienced a significant release of ammonia in the last five years (*i.e.*, you answer "no" in response to question 4), EPA will follow-up by sending Nova Coldstore an offer to resolve this violation quickly and at a steep discount via an Expedited Settlement Agreement ("ESA"). The ESA will require Nova Coldstore to retain a third-party expert to perform a Process Hazard Review of the refrigeration system using appropriate hazard assessment techniques. The ESA will also require Nova Coldstore to meet with the local emergency responders to plan for an emergency response in the event of an ammonia release and to certify that it has filed a Tier II form with local and state emergency responders pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11022, and 40 C.F.R. Part 370.

If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell of my staff at (617) 918-1371 or odonnell.maryjane@epa.gov.

Sincerely,



James Chow, Deputy Director
Enforcement and Compliance Assurance Division

Enclosures

1. Information Request with Declaration
2. Public Notice of Enforcement Initiative
3. Small Business Information Sheet

cc: Christine Foot, Esq., EPA

ATTACHMENT 1

INFORMATION REQUEST

Instructions: Complete this form and the Declaration and mail or e-mail to:

Mary Jane O'Donnell, Chief
Waste and Chemical Compliance Section
Enforcement and Compliance Assurance Division
U. S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100 (Mail Code 05-4)
Boston, Massachusetts 02109-3912
odonnell.maryjane@epa.gov

Guidance on How to Respond. Please respond fully to each of the questions, using the spaces provided. As part of your response, please complete the enclosed Declaration (see below). Your submission must be a self-explanatory, complete response that is dated and signed by an authorized facility official.

Continuing Obligation to Provide/Correct Information. If additional information responsive to these questions becomes known or available after answering this request, including, but not limited to, specific information that may be deemed *unknown* at the time of your response, EPA hereby requests, pursuant to Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), that you supplement your response to EPA within ten (10) days of discovering such information. Please be advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties. If at any time after the submission of this response, you discover or believe that any portion of the submitted information is incomplete or misrepresents the truth, notify Mary Jane O'Donnell of this fact as soon as possible and provide EPA with a corrected response.

Questions. If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell at (617) 918-1371 or odonnell.maryjane@epa.gov.

QUESTIONS/INFORMATION REQUESTED

Nova Coldstore
425 Constitution Drive
Taunton, MA 02780

1. Does the Facility have any refrigeration systems that use anhydrous ammonia?
Yes ___ No ___ How many? _____
2. What is the inventory of anhydrous ammonia contained within each ammonia refrigeration system referenced in your answer to Question 1 above? (list individually)

Refrigeration System	Inventory of Anhydrous Ammonia (pounds)

3. Has a Process Hazard Review been performed on each ammonia refrigeration system referenced in your answer to Questions 1 and 2 above? Yes ___ No ___

If yes, specify the type of review, the year of the review, and who conducted it.

Refrigeration System	Type of Process Hazard Review (Specify industry checklist, What-If Analysis, HAZOP Analysis, or other)	Date of Process Hazard Review	Who Conducted Hazard Review (Specify outside team, your company, or other)

4. Has the Facility experienced an ammonia release in the last five years that resulted in deaths, injuries, significant property or environmental damage, evacuations, or sheltering in place? Yes ___ No ___

If yes, please include a brief description of the ammonia release, including the date, cause, amount released, and consequences of the release. _____

DECLARATION

I declare under penalty of perjury that I am the

_____ of _____,
Title Company

that I am authorized to respond on behalf of

_____, and that the foregoing is a complete, true,
Company

and correct response.

Executed on _____
Date

Signature

Name and Title

Email address

Telephone Number

Compliance Assurance and Enforcement Focus: Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems

Ammonia: An Efficient Refrigerant That Must Be Safely Managed

While anhydrous ammonia has many environmental and operational benefits, it is also an extremely hazardous substance that, if accidentally released, presents a significant health hazard because it is corrosive to the skin, eyes, and lungs. Ammonia is also flammable at certain concentrations in air.



EPA inspection photo reveals dangerous ice buildup on ammonia piping and valves.

How Safe Is Your Refrigeration System?

Accidental releases of ammonia from refrigeration facilities have injured or killed people. See <https://www.epa.gov/sites/production/files/2015-02/documents/112reinforcementalert.pdf>

Some of the most dangerous facilities that EPA inspected were not aware of the hazards that their refrigeration systems posed to the public, emergency responders, and employees.

Does Your Facility Use Ammonia Refrigeration?

The Environmental Protection Agency (EPA) would like to work with facilities that have ammonia refrigeration systems to improve their safety, protect workers and the public from exposure to toxic gas, and avoid product losses.

Notice of Compliance Assurance and Enforcement Initiative

EPA is providing advance notice of an upcoming enforcement initiative so that you can take steps now to avoid a penalty before the initiative begins.

The Initiative will focus on ammonia refrigeration facilities using fewer than 10,000 pounds of anhydrous ammonia to enhance their compliance with the General Duty Clause of Section 112(r) of the Clean Air Act ("CAA"), 42 U.S.C. §(r)(1), and with Section 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11022. Failure to comply with these requirements puts the public at risk of exposure to anhydrous ammonia.

Compliance Help

Go to <https://www.epa.gov/enforcement/compliance-assistance-tools-and-resources-ammonia-refrigeration-sector> for a list of compliance resources, including guidance documents and links to refrigeration-related trade associations.

continued >>

How Can I Comply With The General Duty Clause (GDC)?

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Owners and operators of stationary sources producing, processing, handling, or storing extremely hazardous substances, including anhydrous ammonia, must:

1. identify hazards which may result from accidental releases using appropriate hazard assessment techniques;
2. design and maintain a safe facility taking steps to prevent releases; and
3. minimize the consequences of accidental releases that do occur.

For more information on the General Duty Clause: <https://www.epa.gov/sites/production/files/documents/gendutyclause-rpt.pdf>.

This Initiative focuses on the first duty listed above. Conduct a comprehensive hazard review of your refrigeration system to comply with the duty to identify hazards. Appropriate hazard identification techniques include standard industry checklists and What-if analyses. See above link for more information. Trade associations may be able to help you find experienced consultants and hazard identification materials.

How will EPA's Initiative Work?

Information Request: EPA has begun preliminary investigations into compliance with the General Duty Clause by facilities that it believes has fewer than 10,000 pounds of ammonia. The primary focus of this Initiative is facilities with more than 1,000 pounds of ammonia. EPA will send brief, targeted Information Requests to selected facilities that it has reason to believe may be out of compliance. Facilities will be required to respond to EPA answering four questions about their ammonia refrigeration systems, including whether a process hazard review has been performed. If a facility has not performed the required hazard review, EPA will inform the facility that it has violated the first duty of the General Duty Clause.

Settlement: Unless a significant release has occurred at the facility, EPA will offer to resolve this violation for a discounted penalty, provided the company agrees to perform a hazard review of its system with the help of an expert. The company will also be required to meet with emergency responders and submit any missing Tier II forms.

Follow-up: EPA will inspect a small subset of facilities to determine if the Initiative has improved compliance with the General Duty Clause.

How Can I Comply With EPCRA?

Section 312 of EPCRA requires facilities to report the presence of certain chemicals, including anhydrous ammonia, to emergency planning and response agencies. The goal is to ensure that emergency responders and planners know what chemicals are on site should they need to respond to an incident and that people in the community can get information about chemicals in their neighborhood.

What Can I Do Now To Avoid a Penalty?

If you haven't already, conduct a process hazard review. Companies that respond to the Information Request indicating that a hazard review has already been performed will not need to take further action under this Initiative. To avoid EPCRA penalties, see if you qualify for penalty relief under EPA's Audit Policy. Go to https://www.epa.gov/compliance/epas-audit-policy#_bookmark3 for more information and to <https://www.epa.gov/compliance/epas-edisclosure> for EPA's web-based "e-Disclosure" portal.

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